

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, January 10, 2013

SUBJECT	DESCRIPTION	PRESENTER
	Department of Health and Welfare Overview	Dir. Dick Armstrong
	Welfare	Admin. Russ Barron
	Behavioral Health	Admin. Ross Edmunds
	Family and Community Services	Admin. Rob Luce
	Public Health	Admin. and State Official Elke Shaw-Tulloch
	Licensing and Certification	Admin. Tamara Prisock
	Foundation of Government Accountability	Christie Herrera

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, January 10, 2013
TIME: 3:00 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Guthrie, Martin, Lakey, and Schmidt
ABSENT/ EXCUSED: Senators Hagedorn and Bock

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 3:02 P.M. He welcomed guests and introduced Committee Secretary, Linda Hamlet; Senate Intern, Dahlia Berreth; and Page, Emma Fredericksen. **Chairman Heider** asked the Committee Secretary to take roll call. He advised the committee that **Senators Hagedorn** and **Bock** were excused. **Chairman Heider** stated that the committee will begin the Department of Health and Welfare overview.

PRESENTATION: **Richard Armstrong**, Director of the Department of Health and Welfare, presented an overview. He stated that he would like to review the organization and present a chart of the current structure of the organization. He indicated that there are three major sections with its own deputy, and that ten divisions meet with those three deputies. He furthered that there are currently 2,886 employees in the department, who are divided under these three major sections. **Mr. Armstrong** stated that the handout he provided to the committee listed a sample of the services provided to the citizens of Idaho by the Department of Health and Welfare, which included Medicaid, Family and Community Services, Welfare (Self Reliance), Public Health, Behavioral Health, and Licensing and Certification. He furthered that the department is an umbrella agency for all the human services within the state of Idaho and also centralize all eligibility under one operation.

Mr. Armstrong stated that each of the divisions of the department will speak briefly about what they do. He indicated that for this year, the overall appropriation recommendation is \$2.52 billion, of which 65 percent comes from the federal government. The federal government administers those dollars according to their rules, as well as state rules. **Mr. Armstrong** furthered that most everything has matching dollars, and that the department puts up general, dedicated funds and then include the authorized federal dollars for the programs. He indicated that the matching range is anywhere from 50-90 percent, and that each program has a different appropriation structure. He stated that the 2014 Funding Recommendations for State Fiscal Year (SFY) 2014 are: \$2.52 billion appropriation; \$1.64 billion federal funds; \$617.3 million general funds; that many of the department's programs have federally matching fund leveraged by general fund expenditures; and, for example, on average, for a \$100 health bill submitted by an Idaho Medicaid provider, the state pays \$30 general funds and leverages \$70 federal funds. **Mr. Armstrong** stated that most of the department's appropriation pays for benefits for Idaho citizens; and that the department purchases services from nearly 12,000 companies and more than 31,000 Medicaid providers.

Mr. Armstrong stated that 86 percent of all the dollars go to the Trustee and Benefits, which means that those are dollars going to services delivered to citizens in the state of Idaho. He indicated that the department is a highly privatized organization, and that the personnel only represents 7 percent overall. He furthered that of the personnel budget, one-fifth of that is oriented toward three state institutions, which provide care 24/7: State Hospital North in Orofino, State Hospital South in Blackfoot, and the Southwest Idaho Treatment Center in Nampa. He stated that these are full-time facilities with full-time residents.

Mr. Armstrong indicated that there are currently 255 fewer employees in comparison to the number of employees in the year 2010, due to the recession and a rapid growth in the number of citizens that met the guidelines and programs that the department administers, which impacted the budget and the way business is conducted.

Mr. Armstrong directed our attention to operations, and indicated that Medicaid is the 81.4 percent of the budget. He furthered that of those dollars, 3.4 percent are for operating personnel. He stated that some of the programs are funded by the federal government and by personal dollars, and that the two biggest examples are the Food Stamp Program (also known as the Supplemental Nutrition Assistance Program, SNAP) and Child Support. He indicated that in Child Support, \$290 million cumulative dollars are collected annually from non-custodial parents and provided to custodial parents. **Mr. Armstrong** explained that the reason the department is involved in Child Support payments is to ensure that the court-ordered payments reach the children and to keep the benefits within the family. He then concluded his speech and asked for questions. **Senator Nuxoll** asked for further comment regarding Medically Indigent Services listed in the presentation handout as being 0.01 percent. **Mr. Armstrong** explained that the 0.01 percent figure does not represent the dollars that goes toward health care costs, which are in separate appropriations directly to the cap funds from the Joint Finance-Appropriations Committee (JFAC) in the amount of about \$38 million. He furthered that other monies come from the county budget, which is an assessment that goes to property taxes, generating about \$40,000. **Mr. Armstrong** indicated those two sources are apart from the Department of Health and Welfare.

PRESENTATION: **Russ Barron**, Administrator for the Division of Welfare, began by stating that the Division of Welfare programs are typically referred to as the Division of Welfare Self Reliance Programs, to help individuals and families who are in need or who are in low income to become more self-reliant. He indicated that support is given to those seeking employment.

Mr. Barron introduced two deputy administrators, Greg Kunz and Laurie Wolff; Bureau Chief Julie Lister; Bureau Chief Kandee Yearsley; Bureau Chief Julie Hammon; and Bureau Chief Alberto Gonzalez.

Mr. Barron stated that the Division of Welfare takes about 5.7 percent of the department's budget for 2014. He furthered that most of the budget goes to the Trustee and Benefits of the actual services available, and then the division of thirteen individuals who operate nineteen offices statewide. **Mr. Barron** stated that the operating budget includes 86 contracts with community action agencies, and indicated that the Division of Welfare programs include those listed in the chart in the handout. He furthered that in 2012, the Division of Welfare serviced one in three people in Idaho with a combination of these programs.

Mr. Barron referred to the chart in the handout, and indicated the Food Stamps service; Child Support; Medicaid Eligibility Determination; Aged, Blind and Disabled program; Idaho Child Care Program; and Temporary Assistance, all of which are state delivered programs. He stated that Community Services; Emergency Food Assistance; Home Energy Assistance; and the Weatherization Program are contract services. He further indicated that applicants for these services must meet requirements, such as being a citizen or legal immigrant, an Idaho resident, limited household income; must be employed or enrolled in a public training program, must report changes (such as wages) and complete reevaluations, and must cooperate with child support. **Mr. Barron** continued that a Self Reliance Specialist (SRS) will verify, check and confirm the facts, and that only those eligible will receive services. He indicated that his department strives to streamline the process to make it more efficient, and that the Division of Welfare handles nine million transactions per month.

Mr. Barron stated that the current challenges the Division of Welfare faces are mandatory Medicaid changes; workforce demands with a high case load; and food stamps single-day issuance (food stamps are issued the first day of every month). He continued that common constituent calls and complaints are in regard to ineligibility of services, child support, busy lobbies and phones. He concluded by stating that the Division of Welfare strives to make same-day decisions, to be timely and accurate, and to open a portal to aid with overcrowding.

Chairman Heider asked about the SNAP program. He indicated that last year, there were about 250,000 people in it, and now there is about 331,000, and was inquiring if it was on the increase. **Mr. Barron** answered that it has gone down slightly over the past year, and that the figure **Chairman Heider** mentioned was a snapshot in time. **Chairman Heider** asked about the single-day or multi-day issuance to take place in 18 months from now, if it would require legislation, and what is the process. **Mr. Barron** answered that it does not require legislation, but that it something that requires additional funding to be done, and is a goal. **Senator Guthrie** asked, if under a garnishment situation in a divorce with a child, if the court and the state get their money first before the mother, who could wait for months or years before any money is seen. **Mr. Barron** said that the custodial parent is paid first, and that the federal government charges a \$25 fee to be paid by the parent who is court ordered to pay support. **Senator Lodge** asked how much it would cost to make the changeover to the multi-day issuance. **Mr. Barron** answered that the estimated cost for the first year to start would be about \$400,000, with that amount being reduced to about \$220,000 ongoing every year after that. **Senator Lodge** asked who complained about the issuance of the food stamps and if it was the people receiving the food stamps. **Mr. Barron** answered that some grocers complained that when the stamps are issued at the first of the month, the grocery store patrons were upset because of the crowding and long lines. **Senator Lakey** asked what major mandatory Medicaid changes there are. **Mr. Barron** said that, basically, the way his department does Medicaid eligibility today is being thrown out

the window and there's a whole different way to do it. **Senator Nuxoll** asked how of his budget goes into personnel who are working on federal programs. **Mr. Barron** said it is a little less than 25 percent. **Senator Nuxoll** asked if all the programs are intertwined federally. **Mr. Barron** answered yes.

PRESENTATION: Ross Edmunds, Administrator of the Division of Behavioral Health, introduced himself and said his division has an annual appropriations of just over \$80 million; it has 663 Full Time Permanent (FTP) and serves about 25,000 individuals a year. His division includes adult mental health, children's mental health, substance abuse disorders, State Hospital South and State Hospital North. He said Americans with mental illness die on average 25 years earlier than those without. And, nine out of ten adult addicts starting using before the age of 18. **Mr. Edmunds** said his division is important in that there is a tremendous need for the services provided. He said, in his opinion, behavioral health is critical to overall health because it affects a person's physical health. Some of the challenges in his division, **Mr. Edmunds** said, are improving the quality of care for Idahoans with addiction and mental illness; that Idaho has, traditionally been amongst the states with the highest rate of suicide; and, lastly, needing to work seamlessly on the system of care that transitions people from corrections back into their community. **Mr. Edmunds** said some constituent calls the senators may get might be people asking for assistance to get family members treatment and consumers complaining of mistreatment or being forced into care against their will. Oftentimes the complaints being described are a manifestation of that person's illness.

Chairman Heider asked if we are working specifically for programs dealing with those under the age of 18. **Mr. Edmunds** said they focus a lot of attention on children's services and that it's critical to catch mental illness early because sometimes it can have a snowball effect.

PRESENTATION: Rob Luce, Administrator of the Division of Family and Community Services (FACS), said he has been with FACS for five years and has been the administrator for the past three legislative sessions. In this division, kids and families are first. The division has statutory obligations for child protection, foster care, adoption, the 211 care line, certain individuals with developmental disabilities, the Indian Child Welfare Act and the Interstate Compact on the Placement of Children. **Mr. Luce** said the appropriation and FTP for his division is \$95.2 million; the division is 3.8 percent of the department's budget; 32.7 percent is general funds; and there are 803 authorized Full Time Equivalent (FTE). There are three programs within the division. Those are the child welfare program, the service integration program - which is the navigation and the 211 care line - and the Individuals with Developmental Disabilities (DD) Program - which is Infant Toddler Community DD Program and the Southwest Idaho Treatment Center. **Mr. Luce** touched on a couple of statistics from last year, saying that there were 19,104 total referrals in the child welfare program. To give a context to that number, he said that a child has been abused every 71 minutes, 24 hours a day, seven days a week. **Mr. Luce** said that's an astounding fact, an astounding statistic for Idaho. Another number that stood out was that there were 162,587 calls into the 211 care line. **Mr. Luce** said that's the fifth highest in the nation and yet look at our population. It shows how many people are accessing the care line, he said. The last number **Mr. Luce** gave was on the individuals with DD program. He said there were 33 residents at the southwest Idaho treatment center. At one point, there were over 1,000 people, which shows a huge movement in down-sizing. **Mr. Luce** said that was great, great progress there, moving people with developmental disabilities from an institutional setting out into the community.

Mr. Luce said the Foundation for Government Accountability ranked Idaho number one in child protection, out of the 50 states and District of Columbia, in terms of services provided. At the same time, Idaho spent the least amount of money. **Mr. Luce** said the governor recognized the department, stating the ranking proves that Idaho's approach to doing more with less does not mean sacrificing the quality of service Idaho's children deserve. **Mr. Luce** touched on an urban myth in child protection - and you will see it in the newspapers and hear it on the radio and television - which is that the department takes kids into care. That is simply not true. He listed the process as: law enforcement declare children in imminent danger, then the courts place children in the custody of the Department of Health and Welfare after they find that a child has been abused, abandoned or neglected. **Mr. Luce** said there are two common complaints. one, that the department took children into care that they shouldn't have and, two, that the department didn't take a certain child into care that they should have. **Mr. Luce** said the department deals with highly emotional calls and that the work is very draining and emotional for the social workers. The social workers work with dysfunctional families and kids that have been taken away from their families -kids who love their parents and want to be home and not in foster care. It is an emotional roller coaster. Yet, **Mr. Luce** said, they come to work every day with the hope and expectation that they're going to save the life of one child or that they're going to reunite a child with a family after making progress with safety and whatever else has been a problem. That's what drives them. **Mr. Luce** said he is lucky and blessed to work with such a remarkable group of people.

Senator Nuxoll asked how many of the 19,104 referrals end up being abuse? **Mr. Luce** said the best way to parse that out was to say that in 2012 they had 1,289 children in foster care. He said he could have the department's analyst get back with a better number on that.

PRESENTATION: Elke Shaw-Tulloch, Public Health Administrator, said she has been with the department and the division for the last 17 years, being new to her position for the last four months. **Ms. Shaw-Tulloch** said public health is about addressing population health and about preventing communicable diseases and other threats through targeted efforts. It's about supporting and encouraging health lifestyles, healthy behaviors, healthy communities and healthy environments. **Ms. Shaw-Tulloch** said just some of the public health services range from education, the testing of communicable diseases, immunizations, food safety, certifying emergency medical personnel, vital record administration, compilation of health statistics, laboratory testing, bio-terrorism preparedness and environmental public health. **Ms. Shaw-Tulloch** said the overall budget recommendation for this coming year is \$105.3 million, which is approximately four percent of the department's budget. It's broken up into three appropriations for physical health services, emergency medical services and laboratory services. **Ms. Shaw-Tulloch** said her division has eight bureaus and is supported by 213.5 FTP. She then introduced her leadership team and said they were amazingly talented individuals who provide oversight and guidance to all the work the division is doing and who are instrumental in helping her set the direction of their division. **Ms. Shaw-Tulloch** said the bulk of what is done in public health is really at the local level. Their trustee and benefits category makes/accounts for approximately 380 contracts - which range from the local public health districts that provide support to all the seven local public health districts, hospitals, emergency medical services agencies, universities, community based organizations and others. The division's operating budget supports an additional 88 contracts that for other private partners that help do the work that is done. 17 million of that operating budget really is for the purchase of vaccines. The division's personnel is 13 percent of its overall budget, with work being centrally

located out of the division of public health and the primary responsibility to set directions for programs and managing the programs.

Ms. Shaw-Tulloch said the main issues that public health faces today are ongoing issues that they've been addressing: disease detection and response, addressing not only communicable disease and chronic diseases but also making sure to identify any anomalies in the system around pandemic and around bio-terrorism; continually evaluating its changing role with health care reform, making sure to serve as that community clinical linkage between what's happening in the communities and what's happening in the health care setting and making sure to help people well and out of the hospital settings; and focusing a lot on keeping up with data demands and needs with shift to electronic data sharing. **Ms. Shaw-Tulloch** said the top two constituent complaints are really around emergency medical services and immunizations. **Ms. Shaw-Tulloch** said that in the 2012 legislature, the Bureau of Emergency Medical Services (EMS) and Preparedness was asked to explore the concerns around the recruitment and retention of volunteer EMS providers in rural Idaho. And to that end, the bureau held 16 town hall meetings throughout the state and really listened to what folks were saying. We tried to make sure that everybody had a voice at the table, that we were actively working with them and seeking input from them. The three main concerns that were brought to the forefront were that the public is largely unaware of the services that these providers perform, that they feel they spend a significant amount of uncompensated time in their communities and that the certification exam process is not well understood. **Ms. Shaw-Tulloch** said that, as a result, the report has been finished and was already sent out this last week and they are looking into finding solutions to some of the issues that were raised and are continuing to work on the long-term plan for this.

Ms. Shaw-Tulloch said there are two key issues for the immunization program that tend to arise, both really around immunization requirements. One is the thought that the requirements for the immunizations for school and child care entry are too stringent. To that end, the division has exemption forms readily available on the department's web site to individuals who would like them for religious, medical or philosophical reasons. Another issue raised in the past has been around the exemption forms being hard to find or difficult to complete. So the sentiments heard were taken to the Idaho Immunization Policy Commission to help look at that tool and make sure that it was understandable and easy to use.

Senator Lodge thanked everyone at the **Ms. Shaw-Tulloch's** bureau, specifically thanking Wayne Denny, Chief of the Bureau of Emergency Medical Services and Preparedness, for the work done on the very contentious situation with the rural EMS and said she really appreciated the carry-through. **Senator Lodge** said she hasn't read the report yet, but that she will.

PRESENTATION: Tamara Prisock, Licensing and Certification Administrator, said she oversees the administrative rule-making process for the department, that she's been with the department for over 27 years and that she's been in her current position since late October. She introduced Debby Ransom, Chief of the Bureau of Facility Standards, who has been in that position for over 11 years. **Ms. Prisock** said the Licensing and Certification Division surveys, inspects, licenses and certifies the health care facilities in Idaho that require certification or licensure by either state or federal regulatory requirements; works with the federal Centers for Medicare and Medicaid Services (CMS) to certify a variety of Idaho health facilities to receive Medicare and Medicaid payments; and will license and certify health care providers based on state requirements. **Ms. Prisock** said her division is new and was established July 2012. Prior to that time the division was part of the division of Medicaid. **Ms. Prisock** said there were a couple of important reasons for removing the licensing and certification function from the division of Medicaid: first, was to separate the

regulatory enforcement functions from Medicaid benefit management; second, to position the department to explore possibilities for moving other licensing and certification functions to the new division if those moves would improve service and efficiency. **Ms. Prisock** said a couple of examples of other types of licensing done in the department is to license day care facilities and foster homes. The division's core purpose is to ensure that Idaho health facilities and agencies comply with applicable federal and state statutes and rules. Those rules and statutes exist to promote individual's rights, well-being, their safety, their dignity and the highest possible level of functional independence. **Ms. Prisock** said the division licenses and certifies thirteen different types of facilities and agencies and are responsible for over 3,100 health care and residential facilities with over 21,000 treatment beds across the state. Some of the types of facilities the division work with include skilled nursing facilities, residential assisted living facilities, hospitals, hospice agencies and certified family homes. The team works closely with partners in the respective industries; with advocates and guardians; with other governmental agencies and with other stakeholders to ensure safe and effective care in a variety of settings.

Ms. Prisock said the primary issues facing the division at this time include the modernization of business processes. We are working toward streamlining our processes and better using technology to increase productivity and the quality of our work. The division is also addressing retention of registered nurses. **Ms. Prisock** said another issue continually faced is maintaining the balance between the enforcement of licensing requirements with education and support for providers. Maintaining that balance is difficult at times, but it's critical to ensuring that Idaho maintains high quality care in all areas of the state. **Ms. Prisock** said some complaints the senators could get against the division could be from family members or the general public about the care given to residents in a specific facility. She said the division would appreciate knowing about those complaints and concerns just as soon as possible so we can investigate them. **Ms. Prisock** said there also might be complaints from facilities or providers about actions the division is taking such as revoking their license or certification. Although the division works hard to help providers be successful, sometimes we do have to revoke a license or certification because the facility or agency just fails to bring the facility back into compliance. **Ms. Prisock** said there also might be complaints from providers and facilities about the length of time it takes to complete an application for license or certification. **Ms. Prisock** said there are times when the division is faced with competing priorities, such as increases as the number of complaints needing investigation at the same time that we're experiencing a number of applications for new licenses or certificates. So applications might take longer to complete than the provider would like or that the division would like the application process to take. When faced with competing priorities, the division does the best it can to direct its resources to the work that it needs to do to ensure the safety and well-being of residents and that sometimes creates temporary backlogs in other work that the division needs to do.

Chairman Heider said thank you and wanted to remind the committee that everyone is welcome at the Department of Health and Welfare at any time and that he appreciates that. He thanked those from the department for being who they are and for representing what they represent and for serving the committee and the citizens of Idaho. He welcomed the department staff to stay for the next presentation if they wanted to.

PRESENTATION: **Christie Herrera** said she is the President of Policy at Foundation of Government Accountability (FGA), which is a think tank based in Naples, Florida and that the organization was the one that did the child welfare ranking Mr. Luce mentioned in his presentation. **Ms. Herrera** said her organization runs Project Medicaid Cure, which helps states reform their Medicaid programs with a pro-patient, pro-taxpayer focus based on the successful reforms already under way in places like Florida, Texas, Louisiana, Kansas and Utah. **Ms. Herrera** said FGA hopes to start a child welfare project in the next couple of years and to talk to other governors and state legislators about all of the great things that are being done in Idaho with the child welfare program. She thanked the senators and those at the Department of Health and Welfare for all they do. **Ms. Herrera** said that Medicaid reform will be a hot topic here in this session and that she knows the senators are also grappling with Medicaid expansion. She said she wants to share some of the great things that FGA is doing in Florida and some of the lessons learned in hopes to inform policy choices here in Idaho. **Ms. Herrera** said there are many similarities with the size of Idaho Medicaid and the size of Florida's Medicaid reform pilot program and - when comparing Idaho and Florida Medicaid reform, because there are so many similarities - she thinks the two states could learn a lot from each other.

Ms. Herrera said Florida was in a position seven years ago that many states are in today: if Florida did not curb its Medicaid spending it would consume about 60 percent of the state's budget. The state had 20 waivers going at the same time, multiple delivery systems, two-thirds of the population was in current fee-for-service, where what some called the pay-and-chase Medicaid system. Florida decided to enact a pilot program - a pilot in Florida is 300,000 people on Medicaid and Florida has about 3 million people on Medicaid - with both urban and rural counties to make sure the kind of reforms that tested were good for urban and rural folks. **Ms. Herrera** said that over the past couple of years, the pilot not only ran but was also expanded statewide. It should be going statewide this year. **Ms. Herrera** said some of the large take-aways of Florida Medicaid Reform is that it's so important that, when talking about issues of expansion, if we're going to say no that we also had to say yes. We say yes to reforms that change Medicaid from an open-ended federal program - an unpredictable program - for state legislators and change that to a defined contribution system that moves patients from sickness to health to a better life. And that is what we are doing with this Medicaid Reform Project. Mentioned other take-aways: A Medicaid marketplace - people on Florida's Medicaid Reform have up to 11 plans to choose from; customized benefits - we heard a lot during the federal health reform debate about how private entities were looking to drop the sick and, in Florida, we have actually enacted this customized benefits provision so that managed care entities are encouraged to take the sick and make them well; and choice counseling, which is something that is key to our program.

Ms. Herrera said the Florida Medicaid Reform was started by Florida Governor Jeb Bush, who often says that the people on Medicaid really need to be empowered to make their own healthcare decisions. **Ms. Herrera** said there are choice counselors that help Medicaid patients pick the plan that's best for them and that is really the way that to improve patient care is to allow people to vote with their feet and go elsewhere. 70 percent of Florida Medicaid Reform patients are actively choosing their own plan, which I think is a pretty big take-away. **Ms. Herrera** said a fourth take-away is enhanced benefits rewards for healthy living. And, finally, there is an opt-out provision - so if someone on Medicaid qualifies for employer sponsored insurance, they can take that subsidy and buy coverage in the private market for themselves or for their entire family. **Ms. Herrera** said the reform pilot is bi-partisan. It was started by Governor Bush, approved by President Bush in 2006 and, recently, extended another three years by the Obama Administration extended our pilot for another three years. She said the reform is proven. None of us want to stick our necks out there with reforms that might be untested. Now, we're entering

our seventh year of operation; there are other states like Kansas, Louisiana, Texas and Utah pursuing these kinds of reforms as well; we are seeing better access to care and better health; as well as pretty big cost savings.

Ms. Herrera said some of the key components of Florida's Medicaid reform are, first, the Medicaid reform marketplace – with those meaningful plan choices, patients can choose from as few as two and as many as 11 Medicaid reform plans. The plans have to cover federal minimums but they also offer optional services as well as some services not even offered by Medicaid like adult vision or dental or over-the-counter pharmacy. Secondly, the customized benefits – plans are customizing themselves based on special health needs. For example, there is a plan run by the AIDS Healthcare Foundation called Positive Healthcare and it only provides services to Medicaid reform patients who are HIV positive. The choice counseling patients have 30 days to pick a plan with the help of 31 full time choice counselors. They're multi-lingual, they perform field visits for people who are institutionalized and provide the Opt-Out provision. A patient can get employer sponsored coverage if they have that subsidy and they can go purchase coverage for themselves or their entire families.

Ms. Herrera said she wanted to talk about some of the outcomes being seen in Florida and hopes that other states would want to look at what FGA is doing and, hopefully, get these results. There is an apples-to-apples comparison of specialty care access for patients not only in Florida's Medicaid Reform counties, but also for patients on old Medicaid and for people with private Health Maintenance Organizations (HMO). Patients in Florida's Medicaid reform counties have equal or better access to specialists than everyone else. And, about half of the patients in Florida's Medicaid Reform for them it's actually easier for them to get an appointment with a specialist than it is for people in a private HMO. **Ms. Herrera** said Florida's reforms are also improving patient health, such as asthma management, diabetes care, mental health treatment, and that people in Florida's Medicaid Reform are actually out-performing other Medicaid patients in the state of Florida and nationwide.

Ms. Herrera said the potential for state savings is definitely a policy choice when state legislators move from an open-ended Medicaid program to a defined contribution system and legislators can set level savings anywhere they would like. Louisiana set a 5 percent savings target for their first five years and Kansas did it at 3.5 percent. **M. Herrera** said if Idaho matched Florida's per-person cost for the Temporary Assistance for Needy Families (TANF) and Supplementary Security Income (SSI)/Medicaid populations, we would have a combined state and federal Medicaid savings of about \$407 million. Your match is about 7921 on Medicaid so that would be a state savings of \$85 million. **Ms. Herrera** said she thinks that a big part of what her organization is doing is not only helping state law makers try to improve their fiscal health by reforming Medicaid but, more importantly, fixing Medicaid to help the people that are on the program.

Ms. Herrera shared two stories of some patients that they are working with in Florida as part of Project Medicaid Cure. Laureny Sanchez is a widowed, single mom of four. Her son, Alan, has a brain tumor on his pituitary gland, and has chronic heart and growth problems. Under the old Medicaid program, Laureny couldn't get the care she needed to make her son, Alan, healthy again. The maze of doctors under the old fee-for-service structure was too confusing – and good luck getting in to see a specialist that would actually see a Medicaid patient. Laureny and Alan are now part of Florida's Medicaid reform. Laureny now works with her case manager, Cathy, to coordinate Alan's many doctor appointments and ensure that he's getting the care he needs. Thanks to Florida's reform, Laureny is a happier mom, Alan will become a healthier kid, and Laureny's case manager, Cathy, will spend less time and money on administrative tasks and more time doing what she

loves best—making her patients happier and healthier. **Ms. Herrera** said Florida's Medicaid reform is making patients healthier and happier and the goal is to move Medicaid patients from sickness, to health, and onto a better life. **Ms. Herrera** said they want to help people like Lauren, Alan, and an amazing person, Moise Brutus, who everyone at FGA are so fortunate to work with in promoting the power of Medicaid reform. **Ms. Herrera** said, two years ago, Moise was coming home from a study group and got into a bad car wreck and became a triple amputee. Before the crash, Moise was working as an assistant manager at a car dealership. After the crash, he could no longer work or afford private health coverage. Moise got a letter in the mail, saying that he was going to be enrolled in a privately-run Medicaid plan, but he just didn't want to deal with any more disappointment. The old Medicaid program denied Moise what's called "stump revision" surgery, which led him to depression and thoughts of suicide. His doctors under old Medicaid gave him psychotropic drugs to keep him heavily medicated. Finally, Moise's mom and his private Medicaid plan helped Moise get the care he needed.

Ms. Herrera said it's one thing for her to tell the committee, but it's another thing to hear it directly from Moise. **Ms. Herrera** then played a short video about Moise (link to video listed in attachments). **Ms. Herrera** said Moise's story is really amazing and when he is asked what his long-term plans are, it's to get off of Medicaid so people who really need it can get it. **Ms. Herrera** said Moise is getting a bionic hand, is getting his chemistry degree, is training for the 2016 paraolympics and is a good example of the changes that happen when you move from a one-size-fits-all government run Medicaid program into an option with many private plans where they really view these Medicaid patients as a person rather than a number or a claim to be filed or paid.

Senator Lakey asked how the reform correlates with the mandatory changes going through. **Ms. Herrera** said the reform is completely independent of some of the other health care decisions that states have to make as part of the Affordable Care Act. **Senator Lakey** asked if the program incorporates some of the mandatory changes, does it apply them or is it a separate, alternative approach. **Ms. Herrera** said it's an absolutely independent part of the healthcare delivery system. This is something that you could implement regardless of what a state decides. **Senator Lakey** asked if there are cost savings that go along with increased usage and enhanced client services. **Ms. Herrera** said that was absolutely correct.

Senator Guthrie asked about the presentation slide that showed \$400 million in savings and how **Ms. Herrera** talked about the ability of a patient or a client to pick their plan. He said it seems as people were given the latitude to pick the plan, human nature would say you pick the most expensive plan. He said he's not saying that negatively, but how do you direct them to a plan that best saves the state money. How does that work? He asked **Ms. Herrera** to talk about that a little more and then you talked about the 400 million was that potential savings in Idaho is that what you were getting at and is that total money or just federal money? A little bit more on that. **Ms. Herrera** said a patient picks a plan through the 31 full-time choice counselors. Based on patient's claims history, who their primary care provider is, and what medications they are taking, they are directed into what plan might be best for them. States can bid and put a savings target in the bidding process. **Ms. Herrera** said patients are able to pick any plan because those plans are valued at whatever the per member, per month payment for the patient is. So, what's been seen in Louisiana is and in Florida that patients are not only able to pick a plan that provides basic Medicaid services, but the high-risk high-health cost folks we have specialty plans. **Ms. Herrera** said FGA is working now to have a private Medicaid plan that deals with mental health. They also have one for kids with special health needs and one for people with HIV and AIDs in one of our counties. So for those very high risk Medicaid plans with that higher dollar target,

they would go into a specialty plan. All of the other patients would pick the rest of the plans that are available to them.

Senator Schmidt asked for clarification on the plan numbers. **Senator Schmidt** then said it appears the number of plans to choose from has been reduced over time and so that is somewhat of a selection process, it sounds like, amongst the plans as to whether they're finding it profitable. He also asked for clarification on the number of years Florida has been participating in the reform and to clarify the characteristics of the counties involved. **Ms. Herrera** said there are five counties which comprise about 290,000 Medicaid enrollees - about ten percent of Florida's Medicaid enrollment as a whole. The reason behind picking two urban counties and three rural counties was just to test to see if this was actually working in both scenarios. As part of the competitive procurement process, once this goes statewide, it will be a targeted number of four to six plans. **Ms. Herrera** said, right now, Florida has a rolling admissions, so as soon as a plan has network adequacy and financial solvency the plan is automatically deemed to be a Florida Medicaid reform plan and it can start serving patients. **Ms. Herrera** said the problem that Florida ran into with the existing plans was saying if insurance company X decided to play in Florida's Medicaid reform, they said well we thought we were expecting this amount of business. Now in years two and three, you are accepting all these competitors and it's hard for us to maintain a financial solvency in the state. They call it competitive procurement so that the bids go out every five years so the plans know these are our competitors and we know that we can expect this minimum level of market share. So it was a concession to the plan and it makes things a little bit more predictable for them. **Senator Schmidt** said Ms. Herrera mentioned a per member, per month number and asked her to share that with the committee. **Ms. Herrera** said the per member, per month for the TANF population - moms and kids over age 1 - is over \$140 per member, per month. The per member, per month for the SSI - aged and disabled folks - is about \$800-900 dollars per month, depending on the patient.

Senator Lodge asked for copies of Ms. Herrera's slides. **Ms. Herrera** said she would be happy to give them to her and mentioned FGA's website, medicaidcure.org. **Ms. Herrera** said the website not only has the legislation that was passed in these states that are pursuing reform, but also the copies of the waivers and the state plan amendments that states have filed with the federal government - so readers can know what has been tried before and what has been approved.

Senator Nuxoll asked how Ms. Herrera set her base and if patients all go through case managers. **Ms. Herrera** said Florida Medicaid benefits, as well as the provider rates, are based on current fee-for-service levels so those create a floor rather than a ceiling. They pretty much all go through some sort of case management since the plans know they have that risk-adjusted per member, per month cost that they have to work with. **Ms. Herrera** said a huge hospital system in Florida has a Medicaid Reform plan with a care coordinator in the Emergency Room. By putting the coordinator there, folks who come in for frivolous things can be sent home or asked to make an appointment with their primary care provider. **Ms. Herrera** said they are seeing that this care management really works well when it's imbedded either with the provider or with the plan because they have the financial incentives to properly coordinate care.

Chairman Heider thanked Ms. Herrera for coming from Florida and said the committee was appreciative of her time and the information she brought with her. **Chairman Heider** reminded the committee of the DEQ books on their desks, said the books are the rules from DEQ that they would be discussing on Monday and approving. He asked them to look them over.

ADJOURNED: **Chairman Heider** adjourned the meeting at 4:38 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, January 14, 2013

SUBJECT	DESCRIPTION	PRESENTER
Docket Number	BOARD OF ENVIRONMENTAL QUALITY	
58-0123-1201	Rules of Administrative Procedure Before the Board of Environmental Quality - Pending Rule	Doug Conde
58-0105-1201	Rules and Standards for Hazardous Waste - Pending Rule	Orville Green
58-0108-1101	Idaho Rules for Public Drinking Water Systems - Pending Rule	Barry Burnell
58-0101-1201	Rules for the Control of Air Pollution in Idaho - Pending Rule	Tiffany Floyd
58-0101-1202	Rules for the Control of Air Pollution in Idaho - Pending Rule	Tiffany Floyd
58-0101-1203	Rules for the Control of Air Pollution in Idaho - Pending Rule	Tiffany Floyd

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 14, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock, Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:05 p.m.

Chairman Heider welcomed the committee and said it will be discussing Department of Environmental Quality (DEQ) rules. **Chairman Heider** said committee members access the rules on their computers and **Vice Chairman Nuxoll** will be explaining the rules.

PASSING OF GAVEL: **Chairman Heider** passed the gavel to **Vice Chairman Nuxoll** to begin the rules process.

Vice Chairman Nuxoll said a temporary rule is such that if the governor finds that the temporary adoption of the rule by the agency board or the director protects – so it would have to protect the public health safety or welfare - or complies with deadlines governing the law or federal programs or confers a benefit then the agency may proceed with temporary rulemaking to implement the rule immediately. A temporary rule may become effective immediately upon adoption by the board, the agency board or the director. Once the temporary rule is adopted, the agency is required to publish a notice and the text of the temporary rule in their administrative bulletin. The rule expires upon conclusion of the next regular legislative session. So, it's just a temporary rule and only lasts for awhile depending on whether the governor permits it. **Vice Chairman Nuxoll** said the temporary rule is reviewed by the committees and can be extended as a temporary rule by concurrent resolution. In order for a temporary rule to become a final rule, the rule must go through the regular rulemaking process to be adopted by the agency as a pending rule with negotiated rule making and notices, then approved by the legislature.

Vice Chairman Nuxoll said a pending rule is a rule that has been adopted by an agency due to authority granted to the agency by the legislature, by a law that the legislature passed, by complying with federal requirements to keep up with the federal laws, a court decision, a clarification, new terminology, new practices or clean-up. It follows under the regular rulemaking process and remains subject to legislative review before becoming final and effective. The review is to make sure that it's compliant to the law. **Vice Chairman Nuxoll** said that is what the committee will be doing in this review, looking at the rules that come and making sure that they're compliant with what the legislature intended. Once the pending rule is adopted by the agency, the agency requires a public notice of the pending rule. A pending rule must be submitted to the committees for a review before it can become final and effective, and can be rejected only if both the House and Senate

agree to reject the rule by passing a concurrent resolution. However, if one body approves the rule then it's in effect. **Vice Chairman Nuxoll** said sometimes in a situation in which the committee has a rule that it feels isn't quite right, it will be sent back to the agency for more work. If one wants to reject a section of the rule a motion must be made, but you can't just reject words, change words or add words - it has to be an entire section or the whole rule.

Vice Chairman Nuxoll said a fee rule is the same as a pending rule that either creates a new fee or increases the existing fee. In order for fee rules to become final and effective, this rule must be passed by both bodies by concurrent resolution. **Vice Chairman Nuxoll** said, in order words, it has to be passed by and go through both bodies of the House and the Senate, not just the committees.

Vice Chairman Nuxoll introduced **Dennis R. Stevenson**, Administrative Rules Coordinator, Division of Insurance and Internal Support, Department of Administration, to go over the negotiated rulemaking process. **Mr. Stevenson** clarified the rulemaking process (see attachment on rules) and said he would answer any questions.

Vice Chairman Nuxoll thanked Mr. Stevenson and welcomed **Curt Fransen**, the director of DEQ, so that he could introduce those making presentations. **Mr. Fransen** apologized for being late, saying his group was just before the House Environment Committee, making the same presentation. **Mr. Fransen** said the DEQ has six rulemaking packages before the committee. The first would be presented by **Doug Conde**, a Deputy Attorney General (AG) assigned to represent DEQ and who supervises the other attorneys and AG staff that represent DEQ. **Mr. Fransen** said Mr. Conde has been in that position for about 20 years. The second would be presented by **Orville Green**, the program administrator for DEQ's Waste and Remediation Division, on the rules regarding hazardous waste. The third would be presented by **Barry Burnell**, the administrator of DEQ's Water Quality Division, on the rules regarding drinking water systems. And, the last presenter, **Tiffany Floyd**, would be presenting three different packages regarding DEQ's air pollution control rules. Ms. Floyd – who has a long history with DEQ – is newly back to DEQ after working with the City of Meridian. **Mr. Fransen** also recognized two others: **Mike Simon**, DEQ's air permitting manager, who accompanied Ms. Floyd because a number of the rules are very technical and assistance may be necessary to explain some of the rules; and **Paula Wilson**, DEQ's rules coordinator, who is part of the AG staff assigned to DEQ. **Mr. Fransen** said DEQ is very fortunate to have Ms. Wilson because, due to her efforts, DEQ very rarely, if ever, has any procedural issues with its rules. **Mr. Fransen** said none of the rules before the committee were controversial; public notice was given regarding all the rules; and DEQ received public comments only concerning one of them – the drinking water rule – and Mr. Burnell will explain that during his presentation. **Mr. Fransen** said each of the rules was promulgated for one of basically three reasons: To be consistent with Idaho statutes; to, sometimes, decrease regulatory requirements by providing clarifications or do provide additional flexibility; and, most commonly, to maintain consistency with federal minimum requirements. **Chairman Nuxoll** thanked Mr. Fransen and welcomed Mr. Conde to begin his presentation.

**DOCKET NO.
58-0123-1201**

Mr. Conde thanked the committee and said he's worked for DEQ for a number of years and that he would be presenting the changes DEQ made to the Rules of Administrative Procedure before the DEQ board. The rules govern the way DEQ handles contested cases, which are appeals of DEQ actions or inactions. They also include the rules that govern the way DEQ promulgates rules. **Mr. Conde** said the changes being presented were made to the rules in order to ensure that DEQ's rules are consistent with changes that were made to the Administrative Procedures Act (APA) during the last legislative session, including requiring that all agencies go through the negotiated rulemaking process, if feasible. That is something DEQ is already doing. There were also a number of specific changes to the procedure that agencies must follow when they go through negotiated rulemaking. **Mr. Conde** said the vast majority of the things that were included in the APA were already in DEQ rules. In fact, most of what is in the APA now, as of the last legislative session, is already in DEQ rules. **Mr. Conde** said there are two aspects of the changes in the APA that DEQ thought it needed to reflect in its rules. One, is the APA now requires – if negotiated rulemaking is not conducted – that the notice of regular rulemaking must include a statement regarding why the agency determined it was not feasible to conduct negotiated rule making. **Mr. Conde** said the second requirement is that at the end of the negotiated rulemaking process, the agency must prepare a written summary of unresolved issues, key information considered and conclusions reached during and as a result of the negotiated rulemaking. Then they've got to make that summary available to any persons that attended the negotiated rulemaking meetings.

MOTION:

Senator Bock moved, seconded by **Senator Lodge**, to adopt Docket No. 58-0123-1201. The motion carried by **voice vote**.

**DOCKET NO.
58-0105-1201**

Mr. Green thanked the committee and said this docket describes adoption, by reference, of the federal Hazardous Waste Regulations that were promulgated between July 1, 2011 and June 30, 2012. DEQ performs a routine annual procedure to satisfy requirements of the Idaho Hazardous Waste Management Act, at section 39-4404. This action is also necessary to maintain primacy and authorization for the Idaho DEQ to operate the Federal Hazardous Waste program in lieu of the Environmental Protection Agency in Idaho (EPA). **Mr. Green** said assumption of primacy over hazardous waste from the federal government is also required by the hazardous waste management act in Idaho code. These rules apply to facilities in Idaho that generate, transport, treat, store or dispose of hazardous waste. **Mr. Green** said public notices appeared in the August and November 2012 editions of the Idaho Administrative Bulletin; no public hearing was requested or held; no written comments were received from the public. **Mr. Green** said the Idaho Board of Environmental Quality approved the docket as pending on October 11, 2012 and there will be no increased costs to the regulated community because this is an update to provide consistency with the federal Hazardous Waste Regulations. **Mr. Green** said some rules take effect immediately in Idaho under federal authority and some provide more flexibility that aren't required for primacy to facilities in Idaho. There were no controversial issues in this rulemaking update. **Mr. Green** said the incorporation by reference is current as of July 1, 2012.

Mr. Green said there were three rules that were incorporated by reference in the code of federal regulations and they are fairly straightforward. One of them involved land disposal restrictions that said you can't dispose of hazardous waste in the ground unless it's been treated. The federal regulations had an organic compound that had a numeric standard and not everybody could ascertain that they were meeting that numerical standard because of laboratory and calibration of equipment, so the EPA allowed the use of treatment technologies in lieu of those numeric standards should a company choose to do it that way. **Mr. Green** said those treatment standards are pretty standard: combustion, chemical processes, absorbing them on filters, etc. **Mr. Green** said the second change had to do with hazardous waste manifest forms – a piece of paper that accompanies the waste from the point of its generation until it's disposed that describes what the characteristics of that waste are and how it's been transferred. **Mr. Green** said EPA standardized that for the whole nation a few years ago, and made a standard printing form. One of the things they specified was that if you were distributing a carbon copy to someone it had to be in red ink. Today, some companies have mobile units that print them off on portable computers that don't print red ink, so EPA allows them to use some other way to distinguish that: bolding, different backgrounds, etc., so there's a little more flexibility. **Mr. Green** said the final change was correcting a typographical error on the name of one of the chemicals in one of EPA's long sheets of hazardous waste. **Mr. Green** said DEQ recommends that the committee approves the rules so that DEQ can maintain its authorization to run the program in Idaho.

MOTION:

Senator Schmidt moved, seconded by **Senator Heider**, to adopt Docket No. 58-0105-1201. Motion carried by **voice vote**.

**DOCKET NO.
58-0108-1101**

Mr. Burnell introduced himself and said he was presenting the Idaho rules for public drinking water systems. The rule benefits public water systems by reducing costs and providing flexibility, while at the same time implementing legislative directives. **Mr. Burnell** said the rulemaking complies with *Senate bill 1220*, passed by the 2005 legislature, by adopting engineering standards for the design and operation of membrane filtration, and ultraviolet (UV) disinfection technologies. The new technologies to treat and disinfect drinking water will provide public water systems with additional alternatives for serving safe drinking water to the public. **Mr. Burnell** said pilot testing of treatment systems was modified and preliminary engineering reports section was reorganized. These additional alternatives will help streamline pilot testing and engineering report preparation that will reduce cost to public water systems. **Mr. Burnell** also addressed some additional housekeeping items: deleting unused definitions and providing additional clarifications. **Mr. Burnell** described the public process used for the rule: it was published in the administration bulletin in October of 2011 and there were two negotiated rulemaking meetings. The meetings, which took place on October 26, 2011 and December 1, 2011, were held in the DEQ state office in Boise and teleconferencing was available in the Coeur d'Alene and Idaho Falls offices for those who couldn't come to Boise. **Mr. Burnell** said the notifications of the meetings and the associated public comment periods were sent out by e-mail and were published on DEQ's web page. **Mr. Burnell** said about 20 individuals participated in and attended the meetings. The attendees represented members of the regulated community, such as water operators, public works directors and consulting engineers. The negotiations included discussions about membrane filtration, about UV disinfection, the pilot testing and public notification during depressurization events and backflow assembly repair. After the rule was negotiated, the general public comment period went on from May 1 to June 1, 2012.

Mr. Burnell said a hearing wasn't held since none was requested. **Mr. Burnell** said the DEQ doesn't think there will be an increase or any additional cost to the regulated community as a result of the proposed rules. **Mr. Burnell** said there were two public comments made from one commenter. One was about the public notification when distribution systems depressurize. **Mr. Burnell** explained that when a distribution system depressurizes, there's the chance for bacterial contamination to occur in the distribution system and the public water system purveyor then is obligated to inform the users that it's not safe to drink the water and to issue a boil water order. Once the system's been corrected, there was a requirement that they should then notify the members of the public that it's now safe to drink the water. The public water system owners felt that was too burdensome and that they should only be required to notify the users when there are bacteriological indicators in the water and that it's not safe for consumption. **Mr. Burnell** said his office agreed to make that change. **Mr. Burnell** said the second comment concerned the timeframe to repair or to replace a failed backflow assembly (the systems used to protect the water system from other sources of contamination like pressurized irrigation, or chemical tanks in industrial facilities or hospitals). **Mr. Burnell** said the proposed timeframe for replacing a backflow assembly was five business days. The commenter suggested that the timeframe should be extended because there may be remote locations in the state of Idaho where it'll take time for a replacement part to come to that location. **Mr. Burnell** said his office extended the timeframe to ten business days. **Mr. Burnell** requested the committee approve the rules as proposed and offered to answer any questions.

MOTION: **Senator Martin** moved, seconded by **Senator Heider**, to adopt Docket No. 58-0108-1101. Motion carried by **voice vote**.

DOCKET NO. 58-0101-1201 **Ms. Floyd** introduced herself and said this rule is referred to as "housekeeping" and, specifically, the proposed rule is going to include revisions to three air quality definitions, clarify DEQ's permit to construct exemption criteria, correct typographical errors in the toxic air pollutant rules and streamline DEQ's rule language for non-metallic mineral processing plants known as rock crushers. **Ms. Floyd** said DEQ held the negotiated rulemaking on April 4, 2012 where industry representatives participated and provided written comments, all of which were incorporated and were very minor in nature. DEQ then scheduled a public comment period and a public hearing, concluded in July 2012. **Ms. Floyd** said no additional comments were received. However, there was one clarifying change: the DEQ board wanted to ore added to the general definition of "significant" for particulate matter. **Ms. Floyd** said there are no increased costs to the regulated and there are no controversial issues with any of these rule updates.

MOTION: **Senator Heider** moved, seconded by **Senator Bock**, to adopt Docket No. 58-0101-1201. The motion carried by **voice vote**.

**DOCKET NO.
58-0101-1202**

Ms. Floyd said this rule makes improvements to the motor vehicle inspection and maintenance program by revising the minimum standards and the purpose of this rulemaking is twofold: one, to allow citizens to have their vehicles repaired and tested at the same business and, two, to decrease the regulator burden of the program by allowing DEQ to issue extensions in appropriate circumstances – such as for military personnel away on active duty or others temporarily outside of the testing area. **Ms. Floyd** said DEQ determined that due to the simple nature of this rule, negotiated rulemaking was not conducted. However, DEQ did schedule a public comment period and held a public hearing which concluded in July 2012; no comments were received at that time. **Ms. Floyd** said there will be no increased costs to the regulated community because DEQ thinks of it as an improvement. There are no controversial issues to this rulemaking either.

MOTION:

Senator Martin moved, seconded by **Senator Lodge**, to adopt Docket No. 58-0101-1202. The motion carried by **voice vote**.

**DOCKET NO.
58-0101-1203**

Ms. Floyd said the third and final rule revision is the annual incorporation by reference of the federal regulations. The purpose of this rulemaking is the routine annual incorporation by reference to ensure DEQ's rules are consistent with federal regulations – revised on July 1, 2012. **Ms. Floyd** said this rule will also update the definition of major facility by adding the major source thresholds for greenhouse gasses to be consistent with the federal Greenhouse Gas Tailoring Rule – which was already incorporated by reference, during the 2011 rulemaking process, and then approved by the legislature. **Ms. Floyd** said DEQ did schedule a public comment period and hearing on this. It concluded in September 2012 and no comments were received. **Ms. Floyd** said there will be no increased costs to the regulated community, giving it is just an update, and the regulated community is familiar with the changes and also know where to go to find the information. **Ms. Floyd** said no controversial issues were in this rulemaking. **Ms. Floyd** gave some examples of what was incorporated by reference, such as EPA promulgating a third step of the phased-in approach to the permitting of sources of greenhouse gas emissions that DEQ already had committed to doing in the Greenhouse Gas Tailoring Rule.

MOTION:

Senator Bock moved, seconded by **Senator Martin**, to approve Docket No. 58-0101-1203. The motion carried by **voice vote**.

**PASSING OF
GAVEL:**

Vice Chairman Nuxoll passed the gavel back to Chairman Heider. **Chairman Heider** thanked **Vice Chairman Nuxoll** and everyone at DEQ.

ADJOURNMENT: There being no other business to come before the Committee, **Chairman Heider** adjourned the meeting at 4:18 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, January 15, 2013

SUBJECT	DESCRIPTION	PRESENTER
Opening Remarks	Welcome and Introduction	Chairman Heider
	Presentation by Department of Insurance	Director Bill Deal
<u>RS21577</u>	Relating to Nurses; Revise Provisions Relating to Criminal History Checks; Revise Provisions Relating to Disciplinary Action	Sandra Evans, Board of Nursing
<u>RS21578</u>	Relating to Nurses; Increase a Certain Fine Maximum; Revise Provision Relating to Violations for Which Such Fine May Be Assessed; and Correct Coder's Error and Make Technical Corrections	Same
<u>RS21579</u>	Relating to Nurses; Amending Section 54-1413, Idaho Code, To Grant Executive Director of the Board of Nursing Certain Authority and to Make Technical Correction	Same
<u>RS21592</u>	Relating to Medical Assistance Services; Amending Section 56-255, Idaho Code, to Revise Provision of Behavioral Health Services for Medicaid Participants	David Simnitt, Department of Health and Welfare
<u>RS21593</u>	Relating to Notification of Immunization; Amending Section 39-4804, Idaho Code, to Clarify Terminology Regarding Removal of Information from the Immunization Registry	Christine Hahn, Public Health Medical Director
<u>RS21595</u>	Relating to Immunization Registry; Amendment to Provide Both Adults and Children in the Immunization Registry; to Provide for a Health Data Exchange in Disclosure of Information; to Revise Provision Relating to Removal of Information from Registry and to Revise Provision Relating to Disclosure of Confidential Information	Christine Hahn, Public Health Medical Director

<u>RS21600</u>	Relating to Telecommunications Service Assistance; Amending Section 56-901, Idaho Code, to Remove Reference to Link-Up Contributions; and Amending Section 56-902, Idaho Code, to Remove Reference to Link-up Contributions	Genie Sue Weppner, Department of Health and Welfare
RE 21601	Relating to Mandatory Income Withholding for Child Support; Amending Section 32-1206, Idaho Code, to Provide that Income Withholding Payments by Employers be Remitted to the Department of Health and Welfare; and Amending Section 32-1210, Idaho Code, to Provide that Income Withholding Payments by Employers be Remitted to the Department of Health and Welfare	Kandace Yearsley, Department of Health and Welfare
<u>RS21664</u>	Relating to Fees and Taxes; Remove Requirement that a Specific Percentage of Funds Be Allocated to Specific Programs; and Provide Sunset Date	Paul Leary
<u>RS21680</u>	Clarify Statutes in Idaho Governing Paternity, the Putative Father Registry; and Termination of Parental Rights and Adoption	Robert Luce

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, January 15, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 3:00 p.m., and welcomed guests. He also commented that RS 21577, 21578, 21579 and 21601 on today's agenda would be heard at a later date.

PRESENTATION: **William Deal**, Director of the Department of Insurance, presented information on Health Care Exchange. He began by offering that there would be a briefing to answer any questions that anyone might have tomorrow at 4:00 p.m. and next Tuesday at the same time. He stated that he wished to begin today by providing a brief history. **Governor Otter** appointed two committees last summer: one worked on the expansion of Medicare, and the other committee dealt with the Health Care Exchange in Idaho. The second committee made a presentation to **Governor Otter** on October 31, 2012, in which they provided their findings and recommendations. On December 14, **Governor Otter** sent his Letter of Declaration to **Secretary Sebelius**, stating that he chose to do a state-based exchange for Idaho. **Mr. Deal** stated that with direction from Health and Welfare and the Department of Insurance, the blueprint of a plan to be put in place was submitted along with the Declaration to the Health and Human Services, and have it functional by the deadline of October 2013. He further indicated that the plan was to piggyback on what other states have done, such as Nevada, Colorado, Oregon and Washington. On January 3, **Secretary Sebelius** sent a letter, indicating that the blueprint had been approved. A draft bill will be coming to the legislative leadership for a future hearing.

Mr. Deal stated there is a cost difference between a state-based exchange versus a federal based exchange, and the ongoing cost of the federal base exchange would be about 3.5-percent of the rate premium of Idaho. An exchange would be calculated on a per member, per month basis, which would make costs considerably less. He explained that if Idaho went with a federally facilitated exchange, it would lose a considerable amount of its regulatory authority. He advised that individual states have local expertise and innovation with how they are going to structure their plan for management and customer service for the citizens who will be involved in the exchange.

An issue that has been concerning the health insurance agents of Idaho is if they will remain employed if this exchange takes place. **Mr. Deal** indicated that as far as navigators, agents and brokers are concerned, if it is a federally facilitated exchange, the state has virtually no oversight on what they can do or not do, and agents would be replaced by sisters and navigators.

Mr. Deal stood for questions. **Chairman Heider** asked about the terms sisters and navigators versus agents. **Mr. Deal** replied that an agent has to be trained, licensed and receive continuing education; a navigator is a person who is like a guide who helps people through the system, but cannot sell a policy because they are not licensed; and a sister is like a navigator.

Chairman Heider then asked how much money will be saved with a state exchange versus a federal exchange. **Mr. Deal** answered that he hoped to have figures available in the near future. He continued that Idaho has fewer mandated coverages, and that Idaho has some of the lowest small group rates in the nation.

Senator Bock asked for examples of mandated coverages. **Mr. Deal** replied that one example of a mandated coverage is for children to stay on their parents' policy until the age of 19, that Idaho has fewer mandated coverages than most states, and he could supply a list. **Senator Bock** stated that a list would be helpful to him. **Mr. Deal** explained further that essential benefits would be the same, regardless if it was a state exchange or a federal exchange, since they basically have the same types of coverages. **Senator Bock** stated that it was his impression that Idaho can offer cheaper rates in health insurance because of fewer mandated coverages, and inquired if that would change with the exchange. **Mr. Deal** replied that the policy will be to have what is in force today, in addition to some of the additions of coverage, such as children staying on policies and so forth.

Senator Hagedorn inquired if the intention is to go to a 501c3 or a non-profit based organization. **Mr. Deal** responded that in the Affordable Care Act, there were two options that could be used: one was the quasi-state government and the other was a not for profit. As states go to the state-based exchange, most of them are using the quasi government. Hawaii and Colorado are two examples of states that have gone to the not for profit entity. **Senator Hagedorn** then asked what is the anticipated state cost out of general funds to set the exchange up and to operate it. **Mr. Deal** replied that there would be no cost to the state to set it up, that it would all be financed through a grant.

Senator Martin inquired about the dates and times of the briefings mentioned earlier in the meeting. **Mr. Deal** indicated that both briefings are at 4:00 p.m.; one meeting is set for Tuesday, January 16, at the Department of Insurance on the third floor of the J. R. Williams Building, and the second meeting is on Tuesday, January 22, in the Department of Insurance conference room.

Vice Chairman Nuxoll stated that for a state exchange, she assumed there would be mandates to buy health insurance, and she inquired if she had a moral objection to getting the health insurance because of the Health and Human (HHS) Mandate, who is going to enforce my paying of taxes? **Mr. Deal** responded the (Internal Revenue Service) IRS would. **Vice Chairman Nuxoll** then clarified, the IRS would have their agents come and take care of the issue, and asked if there would there be a lot, if that were the case. **Mr. Deal** replied that the IRS is the enforcement agency of the collection of the fees and taxes, and the state of Idaho, nor any other state, is going to be responsible for the enforcement of the federal law.

RS 21592

Relating to Medical Assistance Services. **David Simnitt**, the Deputy Administrator in the Division of Medicaid, advised that the purpose of the bill is to revise sections of the Medical Assistance Program code that are related to the behavioral health services for Medicaid participants. He indicated that the behavioral health managed care program will begin delivering services to Medicaid participants on July 1, 2013. He furthered that these statutory changes will not impact the general fund. **Mr. Simnitt** requested the Committee send **RS 21595** to print.

- MOTION:** **Senator Schmidt** moved, seconded by **Vice Chairman Nuxoll**, that the Committee send **RS 21592** to print. The motion carried by **voice vote**.
- RS 21593** **Relating to Notification of Immunization.** **Dr. Christine Hahn**, State Epidemiologist and the Medical Director of the Division of Health in the Department of Health and Welfare, advised the purpose of the bill is to clarify terminology regarding removal of information from Idaho's Immunization Reminder Information System (IRIS) registry. She indicated that when someone opts out of IRIS, it is necessary to clarify that all information about the person's immunizations will be removed from IRIS, but not all information about the person. **Dr. Hahn** said that it is necessary to maintain a minimum amount of demographic information in IRIS about someone so that the system can prevent immunization data from being re-entered. She advised that there would be no fiscal impact as a result of this legislation, and requested the Committee send **RS 21593** to print. **Vice Chairman Nuxoll** asked why someone would wish to opt out. **Dr. Hahn** replied that the registry allows parents to opt out of the registry on medical, religious or philosophical grounds, and that their wishes should be honored.
- MOTION:** **Vice Chairman Nuxoll** moved, seconded by **Senator Martin**, that the Committee send **RS 21593** to print. The motion carried by **voice vote**.
- RS 21595** **Relating to Immunization Registry.** **Dr. Christine Hahn** advised the purpose of the bill would enable IRIS to be used for bi-directional exchange of immunization information, allow IRIS to send historical data back to a provider's electronic medical records (EMR) to ensure that the provider has their patients' complete immunization records in the EMR and replace the word "child" with the word "individual" in multiple places to further clarify that IRIS is a "birth-to-death" registry that contains immunization information for both children and adults. She requested the Committee send **RS 21595** to print.
- MOTION:** **Senator Schmidt** moved, seconded by **Senator Bock**, that the Committee send **RS 21595** to print. The motion carried by **voice vote**.
- RS 21600** **Relating to Telecommunications Service Assistance.** **Genie Sue Weppner**, Program Manager in the Division of Welfare, provided an overview of the Idaho Telecommunication Service Assistance Program (ITSAP), which is a Federal Communications Commission (FCC) program which began in Idaho in 1987. This service provides *Lifeline*, which is a reduction in low income household's phone bills of up to \$12.75 a month and has provided *Link-Up* which assisted in the cost of connecting low income household residential phone service. The purpose of this assistance was to help low income households have vital phone service for emergencies, to connect with potential employers and obtain access to medical assistance. **Ms. Weppner** indicated the reductions in costs are funded by surcharges that all phone subscribers pay as part of their monthly phone bill. The state of Idaho contracts with the Community Action Partnership Association of Idaho, known as CAPAI, to manage the enrollment, recertification and validation of program participants who apply for and are found eligible for *Lifeline* or *Link-Up*. She furthered that recently, there has been a new interest in the program by cell phone providers across the nation. This new interest has cell phone providers featuring ads that are aimed at attracting low income households receiving Food Stamps or Medicaid who would be eligible for *Lifeline*. **Ms. Weppner** indicated this new interest has caused the cost of *Link-Up* support to increase by over 230% across the nation. The increase is largely the result of the entrance of wireless services into the market. *Link-Up* was adopted as a discount off of "customary" land line connection charges at a time when these charges were regulated by the Idaho Public Utilities Commission (PUC). She furthered that now the majority of *Link-Up* support is going to pre-paid wireless sellers who are not regulated and therefore difficult to monitor, audit and enforce. This year, the FCC made some rule changes in order to eliminate waste, fraud and abuse. **Ms. Weppner** advised one of the

changes was to eliminate the *Link-Up* program. Since the FCC has terminated this program, it is requested that it be removed from the ITSAP statute. **Ms. Weppner** asked for Committee support in sending **RS 21600** to print.

Senator Lakey inquired about the program, and wished to know if it had perpetual eligibility, poverty guidelines or other requirements. **Ms. Weppner** replied that all applicants are re-certified annually to make sure they meet requirements, and that information is sent to the PUC to reimburse providers. **Senator Lakey** then asked if there were any requirements for the applicants to get out of the situation that they are in. **Ms. Weppner** responded that there are no work requirements connected to the program; however, there will only be one phone service per household, and a database has been put in place to assure that only one individual in a household has access to this service of a reduction in their phone bill.

Senator Hagedorn recommended that the verbiage in the Statement of Purpose be changed and to strike the second sentence regarding the Federal Poverty Level language, which has nothing to do with the change in statute. **Ms. Weppner** agreed that it the verbiage did not need to be there. **Chairman Heider** indicated that the sentence, "They have increased the eligibility limits from 133% Federal Poverty Level (FPL) to 135% of FPL and they have discontinued the '*Link-Up*' program" should be taken out.

MOTION:

Senator Hagedorn moved, seconded by **Vice Chairman Nuxoll**, that the Committee send **RS 21600** to print. The motion carried by **voice vote**.

RS 21664

Relating to Fees and Taxes. **Paul Leary**, Administrator to the Division of Medicaid, advised the purpose of the bill is to modify current code to allow available funding to be use dot cover program expenditures. He indicated that this is included in the Governor's budget recommendation for Medicaid. He furthered that there are three Department of Health and Welfare programs: Children Health Insurance Program (CHIP B), Children's Access Card and the Small Business Health Insurance Pilot Program, all of which are funded through the use of dedicated funds from the Premium Tax Fund. **Mr. Leary** advised that current statute directs specific percentage of the funds to each of the three programs. He furthered that for State Fiscal Year 2013, this allocation formula will leave the children's program underfunded, while excess funds in the adult program will remain idle. He stated that modifying Title 41, Insurance, Chapter 4, Fees and Taxes eliminates the need to revisit the allocation formula each year and will allow the department to fully fund each program.

Mr. Leary indicated there is a sunset clause included in this RS, and the sunset date is October 1, 2015. The reason for this sunset clause is that the adult premium assistance program will be transitioned to the federal subsidy program - that is part of the Affordable Care Act (ACA) – January 1, 2014. Additionally, through a section of the ACA, federal funding of Children Health Insurance Program(CHIP) will increase by 23 percentage points up to 100 percent on October 1, 2015. **Mr. Leary** noted at that point in time, Idaho's CHIP program will be at 100 percent federal funding and the premium tax fund will no longer be necessary to fund the State's share of this program. He requested that the Committee send **RS 21664** to print.

MOTION:

Vice Chairman Nuxoll moved, seconded by **Senator Martin**, that the Committee send **RS 21664** to print. The motion carried by **voice vote**.

RS 21680

Relating to Putative Fathers. Robert Luce, Administrator of the Division of Family and Community Services (FACS), began by stating that when an adoption is done correctly, all parties involved have a joyous experience. He continued that when an adoption fails, it is everyone's worst nightmare. He advised that, while rare, more and more adoptions are being overturned over the course of months and years due to the lack of attention to the parental rights of birth fathers. **Mr. Luce** used Utah as an example, stating that last year, The Supreme Court unwound two adoptions, while a district court unwound one adoption. He explained that Idaho adoption laws are very similar to Utah's, and we are at risk this same type of disruption. He explained that **RS 21680** seeks to clarify the statutes in Idaho governing paternity, the putative father registry, termination of parental rights and adoption. He indicated that this legislation will do four things: 1) further the best interests of the child; 2) clarify that putative fathers must strictly comply with the law; 3) establish a date/time certain for putative fathers to comply with the law; and 4) direct the Department of Health and Welfare to produce and distribute a pamphlet or publication, in English and Spanish, explaining the law in this area; **Mr. Luce** pointed out that this legislation has been in the works for the last five years. He stated that he has worked with **Senator Lodge**, **Senator Davis**, **David McConkie** (General Counsel for the LDS Church), **Willey Dennert** (adoption attorney in Idaho Falls), and himself. He furthered that they crafted **RS 21680** that is before the Committee today. He advised that this morning, he had an opportunity to meet with **Representative Lynn Luker** and added a small tweak that is included in the **RS 21680**, that will aid in avoiding future adoptions from being unwound. **Mr. Luce** requested the Committee send **RS 21680** to print.

Senator Bock stated that he had a couple of concerns: one is that there is a law that gives the perpetrators of forcible rape paternity rights; and has the Judiciary actually been presented with this bill for discussion. He indicated that the question did not need to be answered now, but that he would like to know more about it.

Senator Lodge complimented **Mr. Luce** on the effort that has been put into this matter, and inquired if this included the changes that **Representative Luker** made. **Mr. Luce** explained that **Representative Luker's** requested change had to do with the pamphlet piece and a request that we also include putting that on our web page.

MOTION: **Senator Schmidt** moved, seconded by **Senator Lodge**, to send **RS 21680** to print. The motion carried by **voice vote**.

ADJOURNED: **Chairman Heider** thanked everyone for their hard work, and the meeting was adjourned at 4:18 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, January 16, 2013

SUBJECT	DESCRIPTION	PRESENTER
Opening Remarks	Welcome and Introduction	Chairman Heider
<u>RS21577</u>	Relating to Nurses	Sandra Evans
<u>RS21578</u>	Relating to Nurses; Increase a Certain Fine Maximum; Revise Provision Relating to Violations for Which Such Fine May Be Assessed; and Correct Coder's Error and Make Technical Corrections	Same
<u>RS21579</u>	Relating to Nurses	Same
<u>RS21601</u>	Relating to Mandatory Income Withholding for Child Support	
<u>RS21651C1</u>	Relating to Behavioral Health Services; Amending	Ross Edmunds
Docket No.	PENDING RULES	
<u>16-0202-1201</u>	Rules of the Emergency Medical Services (EMS) Physician Commission	Dr. Murry Sturkie
<u>16-0304-1201</u>	Food Stamp Program in Idaho	Rosie Andueza
<u>16-0304-1202</u>	Food Stamp Program in Idaho	Same
<u>16-0305-1201</u>	Eligibility for the Aged, Blind, and Disabled	Shannon Epperley
<u>16-0305-1202</u>	Eligibility for the Aged, Blind, and Disabled	Callie King
<u>16-0612-1201</u>	Idaho Child Care Program	Martha Garcia

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, January 16, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 3:02 p.m. and welcomed guests. He explained that on the pending rule docket, **Pending Rule 16-0202-1201** will be postponed until another day.

RS 21577 **Relating to Nurses. Sandra Evans**, Executive Director of the Idaho Board of Nursing, stated that **RS 21577** proposes three changes to Idaho Code, Title 53, Chapter 14. She indicated that the changes include: 1) Serve to clarify language related to the Board of Nursing's authority to conduct fingerprint-based criminal background checks. The changes are consistent with recommendations resulting from a recent Federal Bureau of Investigation audit; 2) Correct an oversight in current language that allows room for argument that the statute does not apply to applicants for licensure but only to current licensees; and 3) Authorize the Board of Nursing to impose discipline if a nurse applicant or licensee has had any professional license, not just a nursing license, formally disciplined in Idaho or by another state. This specific change is consistent with uniform licensure requirements adopted by the National Council of State Boards of Nursing that have been endorsed by the Idaho Board of Nursing. This proposed legislation has no fiscal impact on the General Fund and will not result in any increase in nurse licensure fees.

MOTION: **Senator Lakey** moved to print **RS 21577**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 21578 **Relating to Nurses and Disciplinary Fine. Sandra Evans** stated that the Board of Nursing's authority to impose a disciplinary fine is currently limited to cases of practicing nursing in Idaho without benefit of a current license. **RS-21578** amends Idaho Code §54-1404 to extend the Board's authority to impose a disciplinary fine when a licensee has violated Board statutes or administrative rules and discipline is clearly warranted, but where license revocation or suspension would constitute an unreasonably harsh sanction. This proposed legislation has no negative fiscal impact on the General Fund and will not result in any increase in nurse licensure fees.

MOTION: **Senator Guthrie** moved to print **RS 21578**. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

RS 21579

Relating to Nurses. **Sandra Evans** stated that unlike many other Idaho professional licensing boards, the Board of Nursing currently has limited statutory authority to share investigative information with law enforcement and other regulatory agencies, including the Board of Medicine and Pharmacy as well as other boards of nursing. She furthered that this limited authority has hampered Board attempts to cooperate with officials in criminal investigations and also obstructs concurrent disciplinary investigations by nursing boards in other states. **RS-21579** amends Idaho Code 54-1413 to authorize the Board's executive director to share information and otherwise cooperate with appropriate regulatory and law enforcement agencies. The proposed legislation "mirrors" legislation passed in 2010 granting this same authority to the 29 regulatory boards within the Idaho Bureau of Occupational Licenses. **Ms. Evans** indicated that this proposed legislation has no fiscal impact on the General Fund and will not result in any increase in nurse licensure fees.

MOTION:

Senator Schmidt moved to print **RS 21579**. **Senator Guthrie** seconded the motion.

SUBSTITUTE MOTION:

Senator Hagedorn moved to send **RS 21579** back to the sponsor for further definition of "information" and "government regulatory agency." **Vice Chairman Nuxoll** seconded the substitute motion. The motion failed by **voice vote**.

The original motion carried by **voice vote**.

RS 21601

Relating to Mandatory Income Withholding for Child Support. **Kandace Yearsley**, the Department of Health and Welfare Director of Child Support Services, indicated that use of the federally approved income withholding form is a requirement under the Social Security Act and mandated by the Administration of Health and Human Services. She indicated that this federal mandate requires states to apply the federally approved Income Withholding for Support form in all Title IV-D child support cases, and in non-IV-D child support cases with child support order initially issued in the state on or after January 1, 1994. **Ms. Yearsley** stated that, in addition, this rule requires states to administer all withholding payments through the State Disbursement Unit.

MOTION:

Senator Lodge moved to print **RS 21601**. **Senator Bock** seconded the motion.

RS 21651C1

Relating to Behavioral Health Services. **Ross Edmunds**, the Department of Health and Welfare Administrator of Behavioral Health, advised the Committee that there are four primary changes, which include:

- the integration of the substance use disorder and mental health systems;
- allow local communities to have more influence over the Behavioral Health System of Care (BHSC);
- clearly articulate the roles of system partners, public agencies, and Branches of Government; and
- create a BHSC that is recovery oriented and consumer driven.

Mr. Edmunds continued that this legislation also prepares for overall changes that are forthcoming to behavioral health and health care. He furthered that the BHSC in Idaho and nationally are gearing toward a payer driven system. Insurance companies and Medicaid will chiefly be responsible for clinical treatment services (excluding support services). He continued that this legislation will integrate the Regional Advisory Committees (advisory to the substance abuse system) and the Regional Mental Health Boards into a singular entity, called the Regional Behavioral Health Board (RBHB), which will be responsible for the support services missing under a payer driven system. **Mr. Edmunds** stated that this legislation would improve the description of the role of the State Behavioral Health Authority, the Department of Health and Welfare's (DHW) Behavioral Health Division. He advised that the creation of the RBHB will require startup funds, but will not require any new general or federal funds.

MOTION: **Senator Hagedorn** moved to print **RS 21651C1**. **Senator Lodge** seconded the motion.

PASSED THE GAVEL: Chairman passed the gavel to Vice Chairman Nuxoll.

DOCKET NO. 16-0304-1201 **Rule Relating to Food Stamp Program in Idaho (Pending).** **Rosie Andueza**, the Program Manager (Department of Health and Welfare), informed the committee that **16-0304-1201** pertains to policy for households with shared custody of a minor child. She stated that Idaho has long struggled with a method to provide Food Stamp benefits to households that share custody of minor children. At issue is which parent gets to claim the children for purposes of food stamp eligibility. She informed the committee that federal rules do not allow a split of monthly issuances between two households, so Food Stamp benefits for a child is only issued to one household. Before this rule change, Idaho had an approach of first come, first served, whereby the first parent to apply was allowed to include the child in their food stamp household, regardless of the amount of time the child lived with that parent. That permitted a parent who had their child only one day per month to receive food stamp benefits for that child, even though the other parent was responsible for providing for the child the remainder of the month. **Ms. Andueza** stated that in an effort to more equitably determine eligibility and the benefit amount in the shared custody situations, a temporary rule was implemented on October 1, 2012. The new rule states that when two households are requesting assistance for the same child, the child will be considered a member of the household where the child lives 51 percent or more of the time. She advised that this determination will be based on where the child spends the majority of nights during the course of the month.

MOTION: **Senator Lodge** moved to approve **16-0304-1201**. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0304-1202 **Rule Relating to Food Stamp Program in Idaho (Pending).** **Rosie Andueza** informed the committee that there were four minor policy changes to Idaho's Food Stamp Program:

- change the words "guide dog" to "service animal";
- remove the verbiage "person who are living together and holding themselves as man and wife" to reflect that Idaho no longer recognizes common law marriage;
- modify outdated application processing requirements to reflect that applications can be processed from any location throughout the state, rather than the office serving the area where the applicant resides; and
- the final change clarifies that the Department will screen the applicant for potential eligibility rather than the application.

Ms. Andueza explained that Food and Nutrition Services (FNS), the federal entity which administers food stamps, clarified that out-of-pocket expenses shall be for all trained service animals, not just guide dogs, will be allowed when determining food stamp eligibility.

MOTION: **Chairman Heider** moved to approve **16-0304-1202**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0305-1201 **Regarding Eligibility for the Aged, Blind and Disabled (AABD).** **Shannon Epperley**, the Program Manager of Medicaid Eligibility for the Department of Health and Welfare, Division of Welfare, informed the committee that AABD participants must be over the age of 65, blind or disabled and low income. In addition, they must meet strict asset guidelines. If applicants transfer assets to another individual for less than fair market value in an effort to become, or remain, eligible for Medicaid, they must either recover the value of the asset, so that it will be counted toward their asset limit, or serve a penalty. **Ms. Epperley** stated to the committee that the rule addresses the application of these penalties. Asset Transfer Penalties are levied on the participant as a period of ineligibility. The duration of the penalty period is calculated on the value of the asset that was transferred. During the penalty period, participants pay out-of-pocket for received services. Medicaid benefits resume upon completion of the penalty period. **Ms. Epperley** advised the committee that added language will permit an individual to serve an asset transfer penalty while receiving long-term care services in their home. The current policy states that an individual can only serve a penalty while receiving care in a Nursing Home, which unnecessarily prompts clients to enter the Nursing Home in order to serve a required penalty and access Medicaid benefits. **Ms. Epperley** indicated that a clarification in the rule that penalties may be served while a participant is receiving services either in a long-term care facility or in a residential setting through Home and Community-Based Services (HCBS). With this clarification, individuals will be encouraged to remain in the community if possible, which reduces the overall care cost, and increases health outcomes for individuals. She pointed out to the committee that the rule change does not affect the way penalties are calculated or the way they are levied on the participant, not do the rule changes affect the Department's Estate Recovery efforts.

MOTION: **Senator Bock** moved to approve **16-0305-1201**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0305-1202 **Regarding Eligibility for the Aged, Blind and Disabled (AABD).** **Callie King**, Medicaid Program Specialist for the Department of Health and Welfare, Division of Welfare, advised the committee that when there is cost of living adjustment (COLA) in Social Security benefits, each allowance is increased to reflect the change in Social Security income. The total dollar amount of the increase has been typically split by applying 80 percent of the increase toward the rent, utility and food allowance, which goes to the provider, and 20 percent toward the basic allowance that the client keeps. She continued that the Department realizes the increases in the cost of living affects both the provider and participants, and that any future adjustments to budget allowances should be fair and equitable. Thus, the AABD rules are being amended to do away with the typical 80/20 split, and replaced with a percentage-based calculation, using the cost-of-living increase rate, as published by the Social Security Administration.

MOTION: **Senator Martin** moved to approve **16-0305-1202**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
16-0612-1201**

Regarding the Idaho Child Care Program (ICCP). **Martha Garcia**, the Medicaid Program Specialist for the Department of Health and Welfare, Division of Welfare, presented the committee with changes to the rules governing the Idaho Child Care Program that were temporary rules during the 2012 legislation, and that she was asking the committee to make the rules permanent. She stated that the rule changes fell into three categories:

- The ICCP rules were aligned with other critical work support programs, specifically Food Stamps, by changing the eligibility level to 130 percent of Federal Poverty Level so that it is current with other programs; aligning ICCP rules by changing the reporting requirements; and simplifying the calculation of activity hours by creating two categories: full-time and part-time care. Part-time care is now considered twenty-five hours or more per week. These two categories now match child care industry billing standards, eliminate unnecessary fluctuations in payments because of varying work hours, and help families manage their monthly child care payment responsibilities.
- The second category of changes supports families who are actively engaged in federally funded work and self-sufficiency programs such as the cash assistance program and the refugee program. These changes eliminate federal assistance as income and help individuals afford child care while they obtain skills and experience that will lead to permanent employment.
- The third category of changes increases the health and safety of children supported by ICCP subsidies by assuring that foster care children who are supported by ICCP are in state-licensed foster care facilities, and adding immunization records to the records that providers are required to keep so that in times of disease outbreaks, health officials can easily identify vulnerable children in ICCP-eligible child care facilities.

MOTION: **Senator Bock** moved to approve **16-0612-1201**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel to Chairman Heider.

ADJOURNED: Having no further business before the committee, **Chairman Heider** adjourned the meeting at 4:30 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, January 17, 2013

SUBJECT	DESCRIPTION	PRESENTER
Opening Remarks	Welcome and Introduction	Chairman Heider
Docket No.	PENDING RULES	
<u>16-0402-1201</u>	Idaho Telecommunication Service Assistance Program Rules	Genie Sue Weppner
<u>16-0410-1201</u>	Community Services Block Grant Program	Same
<u>16-0309-1101</u>	Medicaid Basic Plan Benefits	Sheila Pugatch
<u>16-0325-1201</u>	Medicaid Electronic Health Records Incentive Program	Same
<u>16-0309-1202</u>	Medicaid Basic Plan Benefits	Lisa Hettinger
<u>16-0310-1201</u>	Medicaid Enhanced Plan Benefits	Same
<u>16-0310-1205</u>	Medicaid Enhanced Plan Benefits	Same

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, January 17, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the Health and Welfare Committee to order at 3:01 p.m., and roll call was taken.

PASSED THE GAVEL: Chairman Heider passed the gavel to Vice Chairman Nuxoll for continuation of pending rule review.

DOCKET NO: 16-0402-1201 **Relating to Idaho Telecommunication Service Assistance Program Rules.** **Genie Sue Weppner**, Program Manager in the Division of Welfare, presented. She stated that the Idaho Telecommunication Service Assistance Program (ITSAP) had two modifications to the program rules. She continued that the first modification is to increase the eligibility criteria to 135 percent of Federal Poverty Guidelines (FPL) from the previous eligibility level of 133 percent of FPL, to comply with the Federal Communications Commission (FCC) regulations. She furthered that the second modification was to remove the "Link-Up" program from the ITSAP rule, since the FCC discontinued the program.

MOTION: **Senator Martin** moved to approve **16-0402-1201**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0410-1201 **Relating to Community Services Block Grant Program.** **Sue Weppner** presented the Community Services Block Grant Program (CSBG) and explained that CSBG is a federally-funded program designated to be used by the Community Action Partnership agencies in the nation. These private non-profit agencies work to alleviate the causes and conditions of poverty for low-income families. Idaho contracts with six Idaho Community Action Partnership Agencies (CAPS) in conjunction with the Community Council of Idaho to deliver services funded with CSBG funds. This network of agencies provides CSBG service to all counties in Idaho. She informed the committee that characteristically, the CSBG eligibility limit has been set at 125 percent of Federal Poverty Level (FPL). The American Reinvestment and Recovery Act of 2009 (ARRA or Stimulus Act) required that all states increase the eligibility limits for CSBG to 200 percent of FPL. This higher income limit expired in 2012, and the docket before the committee today is to return the eligibility criteria for CSBG benefits to 125 percent of FPL to meet the changed federal requirement.

MOTION: **Senator Lakey** moved to approve **16-0410-1201**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0309-1101 **Relating to Medicaid Basic Plan Benefits.** **Sheila Pugatch**, a Principal Financial Specialist in the Division of Medicaid, presented **Docket No. 16-0309-1101** for approval to adopt this pending rule as final. She informed the Committee that the purpose of the rule change, which passed last year as a temporary rule, is to change pharmacy reimbursement to the Average Actual Acquisition Cost (AAAC) by obtaining cost information through a pharmacy survey process. Also changed was the dispensing fee payment from a single fee to a tiered fee structure.

MOTION: **Senator Schmidt** moved to approve **16-030-1101**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0325-1201 **Relating to Medicaid Electronic Health Records Incentive Program.** **Sheila Pugatch** stated that the Department is seeking to have approval to make this pending rule final. She furthered that the purpose of the rule change is to implement a federal program. The program entails incentivizing eligible hospitals and eligible professionals to adopt, implement and upgrade electronic health record systems in their practice of medicine.

MOTION: **Senator Martin** moved to approve **16-0325-1201**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0309-1202 **Medicaid Basic Plan Benefits.** **Lisa Hettinger**, the Bureau Chief for the Division of Medicaid Financial Operations presented **Docket No. 16-0309-1202** and stated that these rule changes are in response to a petition for rulemaking from the Trust and Estate Professionals of Idaho (TEPI). Through this collaboration, the Department is adding a new subsection to IDAPA 16.03.09.905 to codify the current practice of not subjecting certain life estates of Medicaid participants to recovery.

MOTION: **Senator Martin** moved to approve **16-0309-1202**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0310-1201 **Medicaid Enhanced Plan Benefits.** **Lisa Hettinger** presented **Docket No. 16-0310-1201**, whereby rule changes would enable the Department to create an effective process for presenting to the Legislature any proposed rate changes for providers of the following types of services: personal care; mental health; developmental disabilities; and service coordination. **Ms. Hettinger** informed the committee that by creating this new process, the Department is also changing the reimbursement methods in this section so that they align with federal law. The reimbursement rate will be evaluated when necessary, and the rules will outline how any cost surveys will be conducted.

MOTION: **Senator Guthrie** moved to approve **16-0310-1201**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0310-1205 **Medicaid Enhanced Plan Benefits.** **Lisa Hettinger** presented **Docket No. 16-0310-1205**. She stated that these rules continue existing reimbursement methodologies for Nursing Facilities and Intermediate Care Facility for the Intellectually Disabled (ICF/IDs) by changing the cost report year definition for the current and subsequent years. She furthered that these rules also establish the authority and criteria to implement Behavioral Care Units and to establish their rate structure.

MOTION: **Senator Guthrie** moved to approve **16-0310-1205**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Having completed rules review for the day, Vice Chairman Nuxoll passed the gavel to Chairman Heider.

ADJOURNED: There being no more business before the committee, **Chairman Heider** adjourned the meeting at 4:35 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, January 21, 2013

SUBJECT	DESCRIPTION	PRESENTER
Opening Remarks	Welcome and Introduction	Chairman Heider
	Presentation - Health Insurance	Dr. Loel Fenwick
Docket No.	PENDING RULES	
16-0309-1203	Medicaid Basic Plan Benefits	Matt Wimmer
16-0309-1205	Medicaid Basic Plan Benefits	Same
16-0309-1206	Medicaid Basic Plan Benefits	David Simnitt
16-0310-1204	Medicaid Enhanced Plan Benefits	Same
16-0310-1202	Medicaid Enhanced Plan Benefits	Natalie Peterson

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 21, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the Health and Welfare Committee to order at 3:10 p.m., and roll call was taken.

PRESENTATION: **Chairman Heider** welcomed **Dr. Loel Fenwick**, speaker, author, and consultant. After reviewing his educational and professional background, **Dr. Fenwick** spoke about the Patient Protection and Affordable Care Act (ObamaCare) and how Idaho and other states cant put an end to the largest tax increase and transfer of power in the history of the United States. He advised that Idaho must sustain its right to control our own health care by utilizing Patient Power. Patient Power eliminates Government, insurance control and overhead for most consumers. He furthered that reducing unnecessary healthcare consumption and costs were important, and that monitored personal savings accounts will provide Medicare and Medicaid recipients a chance to accrue personal savings through healthy behavior and sensible healthcare choices. A savings of billions of dollars can be achieved when patients become consumers, each protecting their savings from waste, fraud and abuse. Healthcare providers will have an opportunity to compete for customers and make prices commensurate with services provided. **Dr. Fenwick** encouraged legislators to reject a State and Federal exchange, and support a pilot plan that could be the benchmark for every state.

PASSED THE GAVEL: Chairman Heider passed the gavel to Vice Chairman Nuxoll for continuation of pending rule review.

DOCKET NO: 16-0309-1203 **Relating to Medicaid Basic Plan Benefits. Matt Wimmer**, Program Manager at Idaho Medicaid, introduced **Docket No. 16-0309-1203. Mr. Wimmer** stated to the committee that recent changes to the federal laws and regulations direct all state Medicaid programs to cover tobacco cessation products for pregnant women and children under the age of 21. The rule change adjusts Idaho regulations to meet the federal requirements. Temporary rules for those changes were approved by the 2012 legislature and will be presented separately in **Docket 16-0309-1101** for final approval. **Mr. Wimmer** indicated this change is being implemented to keep these rules consistent.

MOTION: **Senator Lodge** moved to approve **16-0309-1203. Senator Martin** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0309-1205 **Relating to Medicaid Basic Plan Benefits.** **Matt Wimmer** introduced **Docket No. 16-0309-1205**. He advised the committee that in 2010, there was an executive order established by the Idaho Medical Home Collaborative to realize a patient centered medical home model of care. This collaborative entails a coordinated effort between primary care providers and public and private payers to better patient health and control healthcare costs by providing improved coordinated care. Idaho Medicaid Health Home providers will be accountable for activities directed toward assisting patients with chronic conditions to gain better health, as well as take a direct role in managing their own healthcare. Home Health providers will join managing patient care with hospitals, nursing facilities, emergency rooms and specialist staff. Home Health will provide extended hours of access to primary care, report data on progress and performance to Idaho Medicaid, and meet requirements for the National Committee for Quality Assurance (NCQA) recognition as a patient-centered medical home. Medicaid will pay the health home provider \$15.50 per participant for every month they are enrolled with them. This program is anticipated to create a net cost savings to the State.

MOTION: **Senator Schmidt** moved to approve **16-0309-1205**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0309-1206 **Relating to Medicaid Basic Plan Benefits.** **David Simnett**, the Deputy Administrator in the Division of Medicaid, introduced **Docket No. 16-0309-1206**. **Mr. Simnett** explained to the committee that the federal Centers for Medicare and Medicaid Services (CMS) recently completed a review of Idaho's Early Periodic Screening Diagnosis and Treatment (EPSDT) program and discovered that the Medical Necessity definition is not in agreement with federal rules regarding Medicaid-eligible children. To rectify this, Idaho has closely worked with CMS to add an EPSDT services definition specific to children who are in need of services beyond the Medicaid State Plan limits. The definition included in the pending rule docket has been reviewed and approved by CMS and reflects the language contained in the Social Security Act. He continued that approval of this pending rule would permit the department to continue to ensure that children receive medically necessary services.

MOTION: **Senator Schmidt** moved to approve **16-0309-1206**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0310-1204 **Relating to Medicaid Basic Plan Benefits.** **David Simnett** stated to the committee that the 2011 legislature, through House Bill 260, imposed cuts to the Medicaid program in order to reduce health care costs in the Medicaid budget. In 2012, through House Bill 609, the legislature restored dental benefits for the Aged and Disabled and the Developmentally Disabled waivers. He indicated that House Bill 609 allowed for Medicaid participants who qualify for both developmental disability and mental health skill building services to receive these services concurrently, under limited circumstances. He furthered that the rules outlined in this docket detail which adults qualify for dental services, the specific dental benefits covered, and the requirements and processes for prior approval of concurrent skill building services.

TESTIMONY: **Katherine Hansen**, the Executive Director of Community Partnerships of Idaho and also with the Idaho Developmental Disabilities Agencies (IADDA) stated she was here to testify not on the language of the rule, but the interpretation of the rule. She stated that there was confusion with the budget, which will need clarification at a later time, and she wanted to bring it to the committee's attention.

MOTION: **Senator Martin** moved to approve **16-0310-1204**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: **16-0310-1202** **Relating to Medicaid Enhanced Plan Benefits.** **Natalie Peterson**, the Bureau Chief for the Division of Medicaid Long-Term Care Program, presented **Docket No. 16-0310-1202** to the committee. She stated that these pending rules are being amended to be in harmony with the recently renewed and approved Home and Community Based waivers, and that the department asks the committee to adopt this pending rule as final.

MOTION: **Chairman Heider** moved to approve **16-0310-1202**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Having completed rules review for the day, Vice Chairman Nuxoll passed the gavel to Chairman Heider.

ADJOURNED: There being no more business before the committee, **Chairman Heider** adjourned the meeting at 4:45 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, January 22, 2013

SUBJECT	DESCRIPTION	PRESENTER
Opening Remarks	Welcome and Introduction	Chairman Heider
	Presentation on Medicaid Primer	Paul Leary
Docket No.	PENDING RULES	
<u>16-0309-1204</u>	Medicaid Basic Plan Benefits	Art Evans
<u>16-0310-1203</u>	Medicaid Enhanced Plan Benefits	Same
<u>16-0601-1201</u>	Child and Family Services	Erika Wainaina
<u>16-0501-1201</u>	Use and Disclosure of Department Records	Miren Unsworth
<u>16-0601-1202</u>	Child and Family Services	Same

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, January 22, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:00 p.m.

Chairman Heider started the meeting by saying David Simnett, the deputy administrator of the Idaho Division of Medicaid, has invited a representative from the committee to be on the patient-centered Medical Home Collaborative that Governor Otter established through an executive order. **Chairman Heider** asked if anyone would like to volunteer. **Senator Martin** said he would.

Chairman Heider asked Division of Medicaid Administrator Paul Leary to come forward and give a presentation on Medicaid.

PRESENTATION: **Mr. Leary** started his presentation by introducing Medicaid management staff: David Simnett, Deputy Administrator; Lisa Hettinger, Bureau Chief for Financial Operations; Natalie Peterson, Bureau Chief for Long-Term Care Services; Matt Wimmer, Bureau Chief for Medical Care; Cathy Libby, who manages the division's systems – such as the MMIS and Molina system; and Art Evans, Bureau Chief of Developmental Disabilities Services. **Chairman Heider** commended the staff and said they are a tremendous resource for the committee.

Mr. Leary said Medicaid, as did Medicare, came out of the Social Security Act in 1965 – Medicare is Title 18 and covers the elderly and Medicaid is Title 19 and covers low-income individuals including the disabled. Although state participation is voluntary, all 50 states participate. It's a publicly-funded health insurance program for low-income individuals. **Mr. Leary** said Medicaid is the largest insurer of health services in the country and it's the main payment for long-term care services in the county. In 2009, it covered about one million individuals in nursing homes and paid for 41 percent of all long-term care expenses in the country. **Mr. Leary** said Medicaid is administered via a state plan – a contract between the state government and the federal government on what will be covered in that state's Medicaid program. The Medicaid program is an entitlement plan (you can still be eligible if you have credible insurance). Medicaid is always the payer of last resort and is secondary payer for those with primary health insurance. The Children's Health Insurance Program (CHIP) is an insurance plan for children (you cannot have credible insurance to get on that program).

Mr. Leary said a state plan is a funding agreement with the federal government, an agreement that lists what the state is going to pay for and what the federal government is going to pay for. Every time the state amends its plan, it goes through legislature and the amendment(s) have to be approved by the federal government before the state can move forward. **Mr. Leary** said the Secretary of Health and Human Services can waive part of that state plan. Waivers waive portions of the state plan so that states can either provide different services or provide services that otherwise could not be offered through the state. **Mr. Leary** waivers came out of section 1915(c) of the Social Security Act. Examples listed were long-term care balancing – the balancing is keeping people who don't need to be in a facility, in a nursing facility or a long-term care facility in the community so they can get their services in the community; the children's redesign; premium assistance; and a 1915(b) Freedom of Choice Waiver.

Mr. Leary gave different percentages of who is eligible for Medicaid and CHIP. Children under the age of six – up to 133 percent of the federal poverty limit and the federal poverty limit for a family of four with an income of just over \$23,000 per year. If a child is between six and eighteen years old, they can be eligible up to 100 percent of the federal poverty limit. Above 133 percent for children six or older, those children in a family can be on CHIP up to 185 percent of the federal poverty limit. **Mr. Leary** said pregnant women are eligible for Medicaid up to 133 percent of the federal poverty limit. About 46 percent to 47 percent of all births in Idaho are covered by Medicaid. **Mr. Leary** said low-income individuals over the age of 65, who are on Medicare, can also be eligible to get Medicaid benefits – those individuals are considered part of the dually-eligible population. **Mr. Leary** said individuals who have a disability – not a severe disability with the need for a nursing facility level of care or intermediate care – can also be eligible for Medicaid. Lastly, adults with children are the only other adults who can be eligible. Those individuals must have an income at 20 percent of the federal poverty limits, about an annual income of \$5,000. **Mr. Leary** said there are three benefit plans in Idaho: the basic health plan for healthy kids and adults; the enhanced plan for individuals with special needs, mental health issues and the need for transplants, etc.; and the coordinated plan for the elderly.

Mr. Leary said his department is funded mostly federally via the Federal Medicaid Assistance Program (FMAP) percentage and the percentages change every year. Most of the Medicaid services are reimbursed at 70 percent federal, 30 percent state. The CHIP program is reimbursed about 80 percent federal dollars and 20 percent state. **Mr. Leary** said most of the department's administrative services are 50 percent state, 50 percent federal. Some professional costs are reimbursed at 75 percent federal, 25 percent state. The new management information system – the new claims system – was all done with 90 percent federal funding and 10 percent state funding. **Mr. Leary** said 96.4 percent of the department's funds – \$1.98 billion of the \$2.06 billion – are spent for services for individuals. Only 0.7 percent of those funds go to personnel in Medicaid and 2.9 percent go to operating expenses. **Mr. Leary** said the top six cost drivers in the Medicaid program haven't changed and make up well over 90 percent of the department's costs. Some examples are hospitals, long-term care services, developmental disability services, physician services, drugs and mental health services. **Mr. Leary** said the department put in a new system – the Molina system – in July 2010. That created the "perfect storm," he said due to instability being caused by withholding payments in the old system and starting the new system. The department started seeing stabilization with the system in the summer of 2011. From that point on, the system has been very stable.

Chairman Heider asked Mr. Leary to read a quote he had given committee members so that those in the audience could enjoy it. **Mr. Leary** said he had gotten the quote from a sign handed down to him by a thirty-year employee who had retired eight years ago. It read, "Medicaid is not rocket science. It's more complex, more confusing and more expensive."

**PASSED THE
GAVEL:**

Chairman Heider thanked Mr. Leary for his presentation and passed the gavel over to Vice Chairman Nuxoll to handle the rest of the items on the agenda, which consisted of pending rules.

Vice Chairman Nuxoll thanked Chairman Heider and introduced Mr. Evans.

**DOCKET NO.
16-0309-1204**

Mr. Evans said **Docket No. 16-0309-1204** is a companion docket to the Children's System Redesign rules and deals with rule changes governing school-based benefits and the infant toddler program. (See attachment 4 for entire presentation speech.)

Vice Chairman Nuxoll asked Mr. Evans if he thought he needed to go through anything in the docket with the committee. **Mr. Evans** said the only thing that might be of interest would be two newly-developed services that are exclusive for schools: behavioral consultation and behavioral intervention. Those services were designed specifically for the school setting to allow children to access the educational environment. They are behavioral management types of services – not skill-building services as developmental therapy was – and they are very unique to the school setting. **Mr. Evans** said working with the schools was really important in order to have a service that could be funded by Medicaid and specifically addressed behavioral issues to keep children in the classroom. **Mr. Evans** said he's very proud of the committee and the work they put into that to develop those rules. **Mr. Evans** said they're very good rules going forward with the school-based system. **Vice Chairman Nuxoll** asked if the toddler program got transferred or were there any changes to it. **Mr. Evans** said they are making the infant toddler program into a provider and are defined as a provider. That is the primary change and it allows them to operate and to bill Medicaid for the services they are providing.

Chairman Heider asked if there is an increase cost to the school systems when the changes are implemented or if they are all absorbed by the department. **Mr. Evans** said the cost impact is about \$2.6 million in federal funds to the school districts and that the department was not able to create a service that would capture all of the previous funding that they had. But, in the department's research, it was found that there was some risk to the schools because some of the developmental therapy that was being provided was more educational and skill-building that wasn't an appropriately funded Medicaid service. So, when these services were redesigned, the department tried to capture the bulk of what the schools were doing, the services they were providing, but making sure they really fit the Medicaid intent. Going forward, the department is estimating it will impact the schools in federal dollars by about \$2.6 million, but it shouldn't impact the services to the children because of what is required in the Individuals with Disabilities Education Act. **Chairman Heider** asked if the school districts will be funding this or will the federal government fund it for the schools. **Mr. Evans** said it will be federally funded, with a 70/30 match – 30 percent of the funding coming from the school districts. That is the way it has been for a number of years now.

MOTION:

Senator Hagedorn moved to approve **Docket No. 16-0309-1204**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

Mr. Evans said **Docket No. 16-1310-1203** presents the final step in a four-year process to implement the Children's Developmental Disability System Redesign. (See attachment 5 for entire presentation speech.)

Chairman Heider asked if Mr. Evans believed the right care, at the right place, at the right price and with the right outcomes is being administered through this program. **Mr. Evans** said, having been a provider – he has been a certified developmental specialist, a certified Intensive Behavior Intervention (IBI) professional, earned a Master's Degree in Social Work and having worked in the field, he does. **Mr. Evans** said he believes there will be an incredibly positive impact on skill building in children as the program moves forward, but it is not without its challenges because it represents a significant change in how business is done. **Mr. Evans** said, in terms of long term outcome and sustainability, he believes that these are an incredible array of services that have been developed by his team.

Senator Lodge said the problems that seem to still exist from last year, are procedural and communication and asked Mr. Evans to explain that better. **Mr. Evans** said the ongoing situations his department has faced have been issues of misunderstanding and miscommunication from a variety of sources. One issue was that staff had not presented some information correctly – particularly in the areas of Habilitative Support. Two years ago, the rules were changed in Habilitative Support in that, initially, it could only be provided in the community. The department worked with the Idaho Association of Developmentally Disability Agencies and some other advocates and struck that part of the rule. In some instances Habilitative Support is appropriate in a center and, in others, it is appropriate in the home. **Senator Lodge** asked if there have also been people not "hearing" what the department is trying to teach them. **Mr. Evans** said he cannot speak definitively, but he believes that to be the case and that the department has had situations where once the staff was able to talk to people, they were able to explain it and get that information out very well. One of the problems the department has faced is when, instead of calling the department staff to ask a question, those individuals will get information from other sources that's not quite accurate. **Mr. Evans** said the department has done over 100 communications in the last couple of years to families and to providers, trying to get them to call. The department also has a web site and has put out letters.

Senator Lodge asked Mr. Evans to give a quick overview of services offered. **Mr. Evans** said Habilitative Support is a support service. In this service, for example, if a child with a developmental disability wants to be engaged in Little League and needs support to do that, the department will provide a paraprofessional to go out there with them to make sure the child is interacting correctly, they are not being made fun of and they are not being abused in any way; also encouraging them and helping them to be successful in their world. Habilitative Intervention encompasses what was called, in the past, Developmental Therapy and IBI. It is habilitative, it is skill building and it's teaching children the skills that they've missed in their normal years of development – such as toileting, feeding themselves, brushing their teeth, social interaction, dealing with behaviors that are out of control and teaching them how to redirect and deal with those behaviors. **Mr. Evans** said Respite Care offers mom and dad, who may be tired, someone to take their child for a few hours so they can have some time to themselves.

This is a brand new service to children and is a relief from the day to day things parents deal with. Family Education and Family Training are two elements that **Mr. Evans** – who said he has also worked as a psychotherapist – said he felt were really very important. Oftentimes, when working with children, they are taught things that their parents need some help in learning – such as how to manage behaviors and how to best accommodate a child who has this particular disability. Therapeutic Consultation is used when needing assistance to figure out what direction to go with a program and what kinds of things to address. Crisis Management is a program that, when in a crisis and in need of help, the department will provide funding and individuals for necessary services. **Mr. Evans** said Interdisciplinary Training is a program that can provide two different types of professionals, working with the same child, some interdisciplinary training with both receiving compensation for that at different levels.

Senator Lakey said he had something brought to his attention by a constituent. With the redesign, if there is an effective support worker working with a family's child both in the home and out in the community – could that still continue? **Mr. Evans** said it could.

TESTIMONY:

Katherine Hansen introduced herself and said she is with Community Partnerships of Idaho and also the Idaho Association of Developmental Disabilities Agencies. She said she appreciated discussion so far and the question from Senator Lakey because really addresses some the remarks she would be making. **Ms. Hansen** said as much as there were parts of the Children's Redesign that she supported and had appreciated the hard work, there were some areas her organizations had concerns about. **Ms. Hansen** said she realized the rules were coming before the committee and the opportunity to go in and cut and change things was pretty late in the game. So, her organizations decided to focus on at least one part of the rule that would have the most impact in terms of the concerns that we are hearing in the community and that area was exactly what Senator Lakey had referenced – a concern from one of his constituents.

Ms. Hansen referenced Senate Health and Welfare minutes from January 31, 2011 on the interpretation of the rules because of the change in the language. Unfortunately, these services, because a number of reasons, never got rolled out. **Ms. Hansen** said every child has to be in the system by July 1 and, only recently, have a lot of families started moving into the system. In terms of when the issues came up, it's just recently as families are going in and there is not longer just an isolated case, or just one or two in a community. **Ms. Hansen** said she is not asking for language to be changed, just for clarification and the interpretation of these rules to be corrected based on the committee's decision two years ago. (See attachment 6a for speech and 6b for the January 31, 2011 minutes that are referenced in speech.)

Senator Martin said he wanted to make sure Ms. Hansen was okay with the wording of the document and that, if so far, the problem is with the implementation of the rule. **Ms. Hansen** said that is exactly correct.

Vice Chairman Nuxoll asked Mr. Evans to come up to address Ms. Hansen's testimony. **Mr. Evans** said the department is aware that there's been communication that has said you can only have Habilitative Support in the community and that is not correct. This came up a couple of weeks ago and the department has been working to try to resolve it with the different groups. **Mr. Evans** said he knows that there has been an issue and the department is working on fixing it.

Senator Lodge asked when people started to change over to the program. **Mr. Evans** said the program was implemented in July 2011 and, to this point, there have been about 600 who have come into it. **Senator Lodge** said she recollects there being a time when some providers were possibly encouraging people to hold off on not enrolling right away and as it is already within six months of the final date to move into the system – and it's been since July 2011 – she has a little heartburn over the fact that the State maybe has not had all the cooperation needed from some of the other people working directly with the parents on this program.

TESTIMONY:

Mary Rumble introduced herself as a parent of a child – son, Kade – with a disability. She said her son has transitioned into the new system and that only a small percentage of families have done so. **Ms. Rumble** said she still has concerns about the redesign system, but wanted to specifically address Habilitative Supports, where that those services can be provided and that's it's a real concern to families. As to maybe why families are not transitioning into the new system, **Ms. Rumble** said when it is found out that other families who have transitioned had met barriers, transitioning does not seem too exciting. **Ms. Rumble** said she, specifically, was told her son could not receive support services anywhere other than in the community unless there were typical peers present 100 percent of the time in-home or in-center. **Ms. Rumble** said based on her son's level of function, his disability being autism, he does not relate to or interact with in any way with his typical peer group. Yet, by making those new rules, there are now appropriate groups her son can be with – through center-based therapies and such – that are not an option for her family to focus on. **Ms. Rumble** said she specifically asked for the best option for her son and was denied. **Ms. Rumble** said it is fantastic to hear Mr. Evans say that this is a communication problem and that we can resolve this because there really are a lot of families to transition into a system and it could become very problematic to have everyone transitioning at the same time. (See attachment 7 for submitted testimony.)

Chairman Heider asked if, with what she had heard today, did Ms. Rumble feel comfortable with the approval of this docket and how it applies to her and her son. **Ms. Rumble** said she is still not in favor of the Children's Benefit Redesign and that it has not been particularly favorable for her and her family as they have transitioned to meet her child's needs. But the one particular point about Habilitative Supports would be really beneficial to some families and that is the reason she chose to speak about that today. **Senator Lodge** asked Ms. Rumble if she could tell the committee anything that has been good about the program. **Ms. Rumble** said she thinks the idea behind the Children's Redesign, in an array of services, is actually fantastic. She said she thinks the problem comes is in the budget tiers and this setup is what families are most concerned about. The tiers don't allow you to actually take advantage of enough services to meet your children's needs. **Ms. Rumble** said she does not know how the tiers were specifically designed but it is a significant decrease in services to her child from what he was receiving before and she does not believe it meets his needs. She said she and her husband, to the sacrifice of their future retirement and long-term care of their son, are purchasing as many therapy hours out-of-pocket as their current budget will allow so they can buy services in the redesign system they feel are really necessary to meet their child's needs.

Senator Lodge asked Ms. Rumble, without giving up any names, to tell her if it was someone from the department who told her that her son could not receive the Habilitation Supports services. **Ms. Rumble** said yes and that she was surprised to hear that different families were getting very different responses, all still being denied services they wished to have, but given things, such as percentages, that were not given to her. **Senator Schmidt** asked Ms. Rumble for her personal description of her family's transition to the new program as well as her perspective on the value of the benefits as they have changed. **Ms. Rumble** said there is a certain frequency in which services need to be provided in order for them to be effective. Based on the budgets that her family has, they simply cannot do enough, in frequency, to see the benefit. **Ms. Rumble** said she does not feel the services, themselves, are a problem, but rather in the ability to actually purchase enough services to be beneficial to your child. **Ms. Rumble** said her son was receiving twenty hours of therapy and now, with the redesign, he can do six. Just for skill building, that is not enough to really make a difference and it just does not feel like a good spending of the State's money. **Ms. Rumble** said her family transitioned in November, so she has gone through all the process, been told what she could and could not do, and outlined and bought additional services for her son.

Vice Chairman Nuxoll asked how old Ms. Rumble's son was and if he went from one tier to another tier. **Ms. Rumble** said her son is 10 years old and he was not in the highest tier. Based on his level, he would meet the institutional level of care burden, so he is in the second highest tier provided within the tier system. **Ms. Rumble** said her son is by no means receiving the least number of services of any child in the system. **Vice Chairman Nuxoll** asked if the services were reduced for that age group. **Ms. Rumble** said no and because the old system was based on hours, her son could do 20 hours of therapy in any week. Now, it is based on what services she can buy from an array of services based on a budget tier of money to spend. And, in her son's budget tier, she can only afford to buy him just over six hours of therapy a week. **Senator Schmidt** asked Mr. Evans if this redesign is a revenue neutral plan. **Mr. Evans** said, yes, in the aggregate, it is.

Senator Hagedorn asked Mr. Evans, based on the testimony and other information he had heard, what would tomorrow's plans be to help mitigate some of the concerns. **Mr. Evans** they are setting up meetings with different agencies/association and that the department has committed to continuing to analyzing its budget tiers. He said the department knows, with this change, there are some children who are receiving fewer hours than they received before and there are some that are receiving more. **Mr. Evans** said the department will continue to look at that and continue to evaluate. But with only 600 children through the system at this time, the department does not have enough information to really see how it is doing. **Mr. Evans** said there is also a program Early Periodic Screening Diagnosis and Treatment (EPSDT), which is a safety net. So if a child had medically necessary needs/issues, they can apply through EPSDT and be given additional money for those medically necessary and documented needs that they have.

MOTION: **Senator Hagedorn** moved to approve **Docket No. 16-0310-1203**. **Senator Lodge** seconded the motion. **Senator Schmidt** said he would like to comment before the vote, which he planned on doing so in favor – he said there was no testimony received that indicated doing otherwise would be helpful. **Senator Schmidt** said the legislature is not here to manage the department – that is not its job. Legislators set policy and hope that it is carried forward. **Senator Schmidt** said, to him, these rules clearly indicated what the committee wants to have happen – and he hopes that serves our state. **Vice Chairman Nuxoll** agreed and said the people or children receiving services should give this a chance and if it still does not work, then to please come back to the committee. The motion carried by **voice vote**.

DOCKET NO. 16-0601-1201 **Erika Wainaina** introduced herself and said she is the Foster Care Program Specialist with the Family and Community Services Division of Health and Welfare. **Docket No. 16-0601-1201** makes permanent an increase of foster care reimbursement rates that was directed by the legislature last year in the department's appropriations bill. Following the legislators direction, a temporary rule was written and increased rates went into effect July 1, 2012. **Ms. Wainaina** said she is requesting this pending rule and the increased rates be adopted as permanent. The changes in base rates are as follows: for a child ages 0-5 the rate increased from \$274/month to \$301/month; for a child ages 6-12, the rate increased from \$300/month to \$339/month; and for a child over the age of 12, the rate increased from \$431/month to \$453/month. **Ms. Wainaina** said foster parents have a difficult job and have not seen an increase in reimbursement rates for several years. Idaho has one of the lowest spending rate per foster child in the entire country and the reimbursement rate shows in the decline of the census of Idaho's foster parents. In June 2008, Idaho had roughly 1,440 foster families and in June 2012, there were only 1,246. The increase in rates will enable foster families to better care for Idaho children who come into the child welfare system. **Ms. Wainaina** said this rule change was presented to the House Health and Welfare Committee yesterday and was passed unanimously.

Senator Schmidt asked what Idaho's ranking would be with these increased payments. **Ms. Wainaina** said she did not have specific numbers as other states are also constantly readjusting their reimbursement rates. However, she said she would guess that Idaho is still fairly low, even with the increase. **Rob Luce**, administrator of Family and Community Services, approached the podium and said the department asked for \$1 million last year and got half of that. With the half a million dollar increase given, that raised the rate to \$1/day. Idaho is now at \$10/day. **Mr. Luce** said he was before the Joint Finance-Appropriations Committee (JFAC) again this year asking for another half a million. Even if asking for a half a million dollars every year, the department could go a number of years before it would raise Idaho's rates significantly.

MOTION: **Senator Lodge** moved to approve **Docket No. 16-0601-1201**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
16-0501-1201**

Miren Unsworth, Child Welfare Program Manager for the Division of Family and Community Services, said **Docket No. 16-0501-1201** contains proposed rule amendments regarding the use and disclosure of child protection case record information. This docket is also associated with **Docket No. 16-0601-1202** which pertains to disclosure of case specific information to foster parents and certain professionals. Public hearings in relation to this docket were held in Boise, Coeur d'Alene and Pocatello in September 2012. No public comment was received. Advanced notice of the proposed rule changes was also sent to representatives from the Governor's Task Force on Children at Risk, the Idaho Children's Trust Fund, Idaho Voices for Children, the Administrative Office of the Courts, Casey Family Programs and they were posted on the department's external web site for access by foster parents. The docket was unanimously approved by the House Health and Welfare Committee on January 21.

Ms. Unsworth said the Child Abuse Prevention and Treatment Reauthorization Act of 2010 (CAPTA) requires states to implement provisions which allow for the public disclosure of the findings or information about a case of child abuse or neglect which resulted in a child fatality or near fatality. The Child Welfare policy manual issued by the federal Administration for Children and Families, Children's Bureau, requires the following information be released: the cause of and circumstances regarding the fatality or near fatality; the age and gender of the child; information describing any previous child abuse or neglect investigations that are pertinent to the child abuse or neglect that led to the fatality or near fatality; the result of these investigations; and services provided by and actions of the state on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality.

Ms. Unsworth said as her department prepared to assist with the implementation of the new statewide Child Fatality Review Team, established and supported by the Governor's Task Force on Children at Risk per Executive Order No. 2012-03, they became aware that their use and disclosure rules related to child fatalities required revision to meet federal requirements. The revisions regarding use and disclosure of information related to child fatalities allow for the department to disclose to the new statewide Child Fatality Review team non-identifying case summary information as outlined by the federal Child Welfare policy manual. The second revision is related to public disclosure of child protection records. Last year, Idaho Code § 9-340B was modified to allow the department to disclose records of investigations associated with actions pursuant to the Child Protective Act.

Ms. Unsworth said the department may disclose those records only for reasons of health and safety, the best interest of the child, or public interest. The proposed rule changes clarify the rule in relation to recent Idaho Code amendments and specify that the department has the discretion to disclose child specific case information when it does not conflict with the child's best interests and one of the following applies: the identifying information has been previously published or released through the media, all or part of the child specific information has been publicly disclosed in a judicial proceeding, or the disclosure clarifies the department's actions on a specific case. The revised language will most likely involve high-profile cases where the local media has made information in a particular case public. Until recently, the department has been unable to release any case specific facts. **Ms. Unsworth** said it should be noted that this rule revision will in no way impede the department's ability to continue to disclose case specific facts to law enforcement and other multi-disciplinary team members in the course of an investigation. The proposed language will assist in compliance with both CAPTA and the records exempt from disclosures section in Idaho Code.

MOTION:

Senator Martin moved to approve **Docket No. 16-0501-1201**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
16-0601-1202**

Ms. Unsworth said **Docket No. 16-0601-1202** contains proposed rule amendments clarifying what information can and must be shared with foster parents and other professionals involved in providing care to children in Idaho's Child Welfare system. This docket is also associated with **Docket No. 16-0501-1201** as it pertains to use and disclosure of child protection case record information. Public hearings in relation to this docket were held in Boise, Coeur d'Alene and Pocatello in September 2012. No public comment was received. Advanced notice of the proposed rule changes was also sent to representatives from the Governor's Task Force on Children at Risk, the Idaho Children's Trust Fund, Idaho Voices for Children, the Administrative Office of the Courts, Casey Family Programs and they were posted on the department's external web site for access by foster parents. This docket was approved by the House Health and Welfare Committee on January 21.

Ms. Unsworth said foster parents and other professionals who provide ongoing care for children involved with the child welfare system, continue to report to the department that they are not receiving information necessary to carry out their roles and duties in caring for these children. The changes clarify what information must be shared with foster parents; what information can be shared with medical, educational and mental health professionals working with the children who have been the subject of a report of abuse, neglect or abandonment; clarify information to be shared with foster parents and specifically address the child's portion of the service plan, the case history of the child and a history of the child's previous placements including the reasons for any placement changes; address the release of information to professionals providing ongoing care for children who have been the subject of a report of abuse, neglect or abandonment; and allows workers to disclose minimally necessary information to the professionals who are most often involved in the ongoing treatment needs of these children. **Ms. Unsworth** said placing these provisions in rule will allow department workers to make decisions about disclosing confidential information and will also assist foster parents and certain professionals to know what information they have access to.

MOTION: **Senator Lodge** moved to approve **Docket No. 16-0601-1202**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel back to Chairman Heider.

ADJOURNMENT: There being no other business to come before the committee, **Chairman Heider** thanked the committee and adjourned the meeting at 4:47 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #2
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, January 23, 2013

SUBJECT	DESCRIPTION	PRESENTER
Opening Remarks	Welcome and Introduction	Chairman Heider
Docket No.	PENDING RULES	
<u>16-0202-1201</u>	Rules of the Emergency Medical Services (EMS) Physician Commission	Dr. Murry Sturkie
<u>16-0506-1201</u>	Criminal History and Background Checks	Fernando Castro
<u>16-0701-1201</u>	Behavioral Health Sliding Fee Schedules	Kathy Skippen
<u>16-0717-1201</u>	Alcohol and Substance Use Disorder Services	Same
<u>16-0720-1201</u>	Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs	Same
<u>16-0608-1201</u>	Minimum Standards for DUI Evaluators	Same

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, January 23, 2013

TIME: 3:00 P.M.

PLACE:

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the Health and Welfare Committee to order at 3:01 p.m., and silent roll call was taken. He also reminded the senators of the committee that Senate photos will be taken on Thursday, January 24.

PASSED THE GAVEL: Chairman Heider passed the gavel to Vice Chairman Nuxoll for continuation of pending rule review.

DOCKET NO: 16-0202-1201 **Relating to the Rules of the Emergency Medical Services (EMS) Physician Commission.** **Dr. Murray Sturkie**, emergency medicine physician at St. Luke's Medical Center and the Chairman of the Idaho Emergency Medical Services Physician Commission, presented. He furthered that EMS came into being by the passage of House Bill 858 by the 2006 Legislature. There are eleven voting members appointed by the governor. The objective of the Physician Commission is to set up standards for the range of practice and medical supervision of licensed EMS personnel and organizations. **Dr. Sturkie** advised the committee that there was an update made on the "Description of Profession" for the Emergency Medical Technician (EMT). Advanced EMTs can decide if they wish to stay at their current scope of practice or transition to a new scope. He furthered that there were changes made to the scope of practice grids, which identify which skills, treatments and procedures that licensed EMS personnel in Idaho may perform. Within the authorized scope of practice for each level of licensed EMS provider, there are optional skills that can be performed with additional training and medical supervision that tailor the services to meet local needs. **Dr. Sturkie** concluded by saying that the final change is that EMS medical directors will submit their medical supervision plan within thirty days of request to the EMS Bureau.

MOTION: **Senator Martin** moved to approve **Docket No. 16-020-12010**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: 16-0506-1201 **Relating to Criminal History and Background Checks.** **Fernando Castro**, supervisor of the Criminal History Unit of the Idaho Department of Health and Welfare, Board of Health and Welfare, presented. He advised the committee that over 21,000 background checks are performed each year. Fingerprints of each applicant are submitted to the Federal Bureau of Investigation (FBI), transmitted through the Idaho State Police (ISP) for a fee. The ISP amended their rules and increased their processing fee from ten dollars to twenty-five dollars. He furthered that Idaho Code necessitates the collection of a fee to cover the costs of a background check. **Mr. Castro** stated that when the ISP increased their fees, the Criminal History Unit initiated the rule change to include the additional cost by requesting authority to increase the Criminal History Unit's fee by \$15 to stay in harmony with the ISP. He furthered that the current fee of \$55 would be therefore be increased to \$70. **Mr. Castro** explained that the Criminal History Unit has

been working with the ISP to keep the costs of a background check as low as possible. The ISP agreed to phase in the increase over the next fiscal year, and they offered a \$5.00 discount due to the fact that the Criminal History Unit will be able to electronically scan fingerprint cards instead of processing paper fingerprint cards. **Mr. Castro** advised the committee that the savings will be passed on to their customers.

MOTION: **Chairman Heider** moved to approve **Docket No. 16-0506-1201**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: **16-0701-1201** **Relating to Behavioral Health Sliding Fee Schedules. Kathy Skippen**, Program Specialist with the Department of Health and Welfare presented **Docket No. 16-0701-1201**. She advised the committee that in 2006, the legislature passed several pieces of legislation changing how substance use disorder (SUD) treatment and recovery support service needs were assessed and delivered. One of the bills created the Interagency Committee on Substance Abuse Prevention and Treatment (ICSA) as the authority in charge of budgetary, programming and policy decisions regarding SUD treatment, recovery support services and prevention. The legislation contained a sunset date of June 30, 2011. Due to the fact that ICSA sunsetted as required by legislation, references to it from the Idaho Administrative Procedures Act (IDAPA) rules needs to be removed. She furthered that one other change to this rule is to add the definition of Management Services Contractor (MSC), and that the omission of the definition was an oversight that needed to be corrected.

MOTION: **Senator Hagedorn** moved to approve **Docket No. 16-0701-1201**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: **16-0717-1201** **Relating to Alcohol and Substance Use Disorder Services. Ms. Skippen** presented **Docket No. 16-0717-1201**. She advised the committee that in IDAPA, there is a section of rules that pertains to substance use disorder services, and another section that pertains to facility and program approval. She furthered that these two sections of rules should work in harmony, but that they currently have confusing and inconsistent language that makes the enforcement of the rules challenging, and equally challenging for the State's private providers to adhere to them. The change to this rule will make these two sections less confusing and will update terminology for services.

MOTION: **Senator Schmidt** moved to approve **Docket No. 16-0717-1201**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

DOCKET NO: **16-0720-1201** **Relating to Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs. Ms. Skippen** presented **Docket No. 16-0720-1201**. She advised the committee that a number of changes are being requested to this section of the IDAPA rule for the purpose of aligning rules and existing standards for substance use disorder (SUD) treatment and recovery support services in the private sector, in conjunction with those pertaining to mental health services. She furthered that the first requested action is to reject the revision to Subsection 009.01, as it was inadvertently removed and should be left in. **Ms. Skippen** stated that updated terminology was incorporated in a number of areas as well. She continued that revisions were made to make supervision of clinicians more individualized. For supervision to be more effective, it needs to concentrate on the areas where the clinician requires more training and experience.

Ms. Skippen stated that there was a major change in who can provide SUD treatment services. Previously, a number of professions required considerable experience in providing SUD treatment services before being allowed to provide the same services in an approved facility. Because of this rule, providers were facing a severe workforce shortage of qualified clinicians to work in their facilities. Individuals who have the credentials in these fields have the basic background to

provide SUD services. In the areas that require more experience, supervision would be provided to meet their needs.

Ms. Skippen advised the committee of the request to remove the subsection of this rule pertaining to Drug Court, as it is unnecessary bureaucracy.

A new section was added to cover Adolescent Safe and Sober Housing, in order to fill a treatment need that exists for some adolescents where circumstances determine that they no longer need residential treatment, cannot live at home, but also, are not ready to live alone. It provides for adult supervision and ongoing outpatient treatment, which will provide better outcomes.

MOTION: **Senator Schmidt** moved to approve **Docket 16-0720-1201** with the exception of Subsection 009.01. **Senator Martin** of seconded the motion. The motion carried by **voice vote**.

DOCKET NO: **16-0608-1201** **Relating to Minimum Standards for DUI Evaluators.** **Ms. Skippen** stated to the committee that a person who receives a DUI can be required by the court to have a DUI evaluation performed. The evaluation is then provided to the judge for sentencing purposes. The DUI Evaluator who conducts the evaluation is credentialed by the Department of Health and Welfare, after meeting particular requirements to provide the service. She stated that magistrate judges have voiced concerns regarding the quality and consistency of the DUI evaluations they receive, which prompted an extensive review of the evaluation system with leadership from the courts. The result was the recommendation that this chapter of IDAPA rule be removed. The purpose of this change is to require DUI Evaluators to be affiliated with an approved facility. This will safeguard that evaluations are done at a site that has been inspected for safety, has shown documentation of satisfactory business practices and can provide professional supervision of those persons conducting the evaluations. **Ms. Skippen** advised the committee that the evaluations being performed are strictly used in the court system, and that decisions regarding their quality should be made within that system. She then introduced Mr. Kerry Hong, representing the Idaho Supreme Court, to answer any questions concerning the court's participation in the rule change.

Mr. Hong told the committee that he is with the Administrative Office of the Idaho Supreme Court. He stated in that in 2010, a survey was conducted among the magistrate judges specific to the status of their satisfaction of the DUI evaluations. It was found that 66 percent of magistrate judges were dissatisfied with the evaluations, and therefore the evaluation process was redesigned.

MOTION: **Senator Bock** moved to approve **Docket 16-0608-1201**. **Senator Martin** of seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business to come before the committee, **Chairman Heider** adjourned the meeting at 4:40 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, January 24, 2013

SUBJECT	DESCRIPTION	PRESENTER
Docket No.	BOARD OF MEDICINE	
<u>22-0101-1201</u>	Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho	Nancy Kerr
<u>22-0111-1201</u>	Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho	Same
<u>22-0112-1201</u>	Rules Relating to Health Care Workers	Same
<u>22-0114-1201</u>	Rules Relating to Complaint Investigation	Same
<u>22-0102-1201</u>	Rules of the Board of Medicine for the Registration of Externs, Interns and Residents (pending fee rule)	Same
<u>22-0103-1201</u>	Rules for the Licensure of Physician Assistants (pending fee rule)	Same
<u>22-0113-1201</u>	Rules for the Licensure of Dietitians (pending fee rule)	Same

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, January 24, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the Health and Welfare Committee to order at 3:02 p.m. and silent roll was taken.

PASSED THE GAVEL: Chairman Heider passed the gavel to Vice-Chairman Nuxoll for continuation of the pending rule review.

DOCKET NO: 22-0101-1201 **Relating to the Rules of the Board of Medicine for Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho.** **Nancy Kerr**, Executive Director, Idaho State Board of Medicine, presented. She stated that **Docket Number 22-0101-1201** is a pending rule of the Idaho Board of Medicine, and that these rules were published in the October 3, 2012 Idaho Administrative Bulletin Volume 12-10 (page 483-487). Licensees were also notified of the proposed changes in the summer 2012 newsletter of the Idaho Board of Medicine. A Public Hearing was held October 23, 2012 and no comments were received. The rules were published without change as pending rules in the January 2013 Idaho Administrative Bulletin.

The rule corrects the web address and eliminates multiple paper copies of documents in proceedings before the Board of Medicine in favor of one electronic copy. The rule adds the requirement for a birth certificate or current passport consistent with the Federal Bureau of Investigation (FBI) requirements for criminal background checks. It also clarifies the scope of malpractice claims on which a physician may be required to serve as panel member as limited to a licensed Idaho Physician or licensed acute care hospital.

The following is a summary of changes:

- Section 006 - clarifies the web address;
- Sections 007 - eliminates multiple paper copies in favor of a electronic copy;
- Section 050.04.n. - adds the requirement for a birth certificate or current passport consistent with the FBI requirements for a criminal background check and renumbers the section for consistency; and
- Section 081 - clarifies the scope of malpractice claims on which a physician may be required to serve as panel member.

MOTION: **Senator Martin** moved to approve **Docket No. 22-0101-1201**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Relating to the Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho. **Ms. Kerr** stated that **Docket Number 22-0111-1201** is a pending rule of the Idaho Board of Medicine, and these rules were published in the October 3, 2012 Idaho Administrative Bulletin Volume 12-10 (page 496-504). Licensees were also notified of the proposed changes in the summer 2012 newsletter. A Public Hearing was held October 23, 2012 and no comments were received. The rules were published without change as pending rules in the January 2013 Idaho Administrative Bulletin.

She furthered that the rule corrects the web address and eliminates multiple paper copies of documents in favor of one electronic copy, adds the requirement for same site supervision of polysomnographer trainees, clarifies the disclosure of criminal charges regardless of outcome, and allows a temporary permit to be renewed one time only and prohibits those who have held a permit as a technician from re-applying as trainee.

The following is a summary of the changes:

- Section 006 - clarifies the web address;
- Sections 007- eliminates multiple paper copies in favor of a electronic copy;
- Section 010.19 - adds the requirement for same site supervision of trainees;
- Section 032.01.a. - clarifies disclosure of all criminal charges regardless of outcome;
- Section 032.02.c.iii. - clarifies that a temporary permit may only be renewed once; and
- Section 032.05.f.iii - defines the exclusion of those who have held a technician permit from making application as a trainee.

Senator Guthrie referred to page 459, Section 32.01.a. He asked if a person were charged but not convicted, explain the purpose of the need of that information.

Ms. Kerr replied that one example that they frequently see is a Driving Under the Influence (DUI) citation that has been pled down to a reckless driving charge. She stated that pleading it down does not change the fact that the individual had an elevated blood alcohol, and that would indicate to us that this person would need to be monitored for further drug or alcohol abuse.

Senator Lakey asked further clarification of page 459, § 32.01.a. He asked if just the charge itself is sufficient. **Ms. Kerr** replied that just the charge would be enough, as it speaks to the integrity of the applicant. During a criminal background check, it is better if the applicant discloses all information on their application instead of omitting something. **Senator Guthrie** indicated that he was going to press harder, because if someone is falsely charged, the charge has no bearing or relevance, where is the protection for the individual. He stated that he was not comfortable with it. **Ms. Kerr** stated that being charged does not exempt someone from obtaining a licence; it just alerts us to the integrity of the individual. If you look at all the applications for professional licenses, they all require disclosure of charges. It is best of if the applicant discloses the information first instead of us finding out about it later with the background check. Even if a charge is dismissed or stricken from the books, the FBI still has records of those charges.

Senator Lakey asked if someone is wrongfully charged, how do you deal with the charge; how do you consider that, and could the charge be considered negatively even if it was dismissed. **Ms. Kerr** reiterated that charges are not grounds for denial of an application. The individual can still be licensed, but again, we are speaking to the integrity. We have found on multiple background checks where people have been charged with something and failed to disclose it on their application. If someone has been charged, it could indicate that there may be a problem.

MOTION: **Senator Schmidt** moved to approve **Docket No. 22-0111-1201**. **Senator Martin** seconded. The motion carried by **voice vote**. **Senator Guthrie** voted nay, and wished to be recorded.

DOCKET NO: **22-0112-1201** **Rules Relating to Health Care Workers.** **Ms. Kerr** stated that **Docket Number 22-0112-1201** is a pending rule of the Idaho Board of Medicine, and these rules were published in the October 3, 2012 Idaho Administrative Bulletin Volume 12-10 (page 505). Licenses were also notified in the spring and summer 2012 newsletter. A Public Hearing was held October 23, 2012 and no comments were received. The rules were published without change as pending rules in the January 2013 Idaho Administrative Bulletin. She furthered that the rule is redundant information contained in the specific statutory and rule language for each profession and is generally outdated, and the board requests repeal of the outdated and redundant information.

MOTION: **Senator Martin** moved to approve **Docket No. 22-0112-1201**. **Chairman Heider** seconded. The motion carried by **voice vote**.

DOCKET NO: **22-0114-1201** **Rules Relating to Compliant Investigation.** **Ms. Kerr** stated that **Docket Number 22-0114-1201** is a pending rule of the Idaho Board of Medicine, and these rules were published in the October 3, 2012 Idaho Administrative Bulletin Volume 12-10 (page 510-515). Licensees were also notified of proposed changes in the spring and summer 2012 newsletter. A Public Hearing was held October 23, 2012 and no comments were received. The rules were published without change as pending rules in the January 2013 Idaho Administrative Bulletin.

She furthered that the rule adds the web address, eliminates multiple paper copies of documents in favor of one electronic copy, clarifies the format for submission of a complaint to the Board, requires the signature of the complainant and provides housekeeping changes to clarify language. The rules clarify the authority of the Board in conducting investigations and add clarity the practice indicators for investigation.

The following is a summary of the changes:

- Section 006.05 - adds the Board web address;
- Sections 007 - eliminates multiple paper copies in favor of a electronic copy;
- Section 10-14 - housekeeping changes to language and grammar. Requires a complainant signature on complaint form;
- Section 20 - clarifies the requirement of for a copy of all information to be attached to the report of investigation;
- Section 21 - provides housekeeping changes to language and grammar; and
- Section 23 - clarifies the indicators for proactive investigations eliminating age as an indicator and clarifying deterioration from any illness as an indicator for investigation.

MOTION: **Senator Martin** moved to approve **Docket No. 22-0114-1201**. **Chairman Heider** seconded. The motion carried by **voice vote**.

DOCKET NO: **22-0102-1201** **Relating to the Rules of the Board of Medicine for the Registration of Externs, Interns and Residents (pending fee rule).** **Ms. Kerr** stated that **Docket Number 22-0102-1201** is a pending fee rule of the Idaho Board of Medicine, and these rules were published in the October 3, 2012 Idaho Administrative Bulletin Volume 12-10 (page 488-492). Licensees were also notified of the proposed changes in the summer 2012 newsletter of the Idaho Board of Medicine. A Public Hearing was held October 23, 2012 and no comments were received. The rules were published without change as pending rules in the January 2013 Idaho Administrative Bulletin.

She informed the committee that the rule adds the web address, eliminates multiple paper copies of documents in favor of one electronic copy; clarifies definitions and accrediting agencies for medical and osteopathic education and the various statuses of students and post graduate trainees; and requires a copy of a birth certificate or passport consistent with FBI requirements for criminal background checks. She continued that the rule requires the applicant disclosure of criminal charges, disciplinary actions or malpractice proceedings regardless of outcome; adds the requirement for notification of adverse action, change in training programs, or supervision within 14 days of such an event; changes the period issuance of registration from up to three years to not less than one year and require renewal of registration before the expiration date; and adds a requirement for annual renewal of registration and allows the board to charge a fee for renewal.

The following is a summary of changes:

- Section 006.05 - adds the Board web address;
- Section 007 - eliminates multiple paper copies in favor of a electronic copy;
- Section 008 - adds a severability clause;
- Section 010 - clarifies the accrediting agencies and requirements for training and education programs and clarifies the status of each training applicant;
- Section 016 - adds requirements for birth certificate or passport consistent with FBI requirements for identity verification and clarifies reporting of malpractice claims regardless of outcome;
- Section 017 - requires notification to the Board of any adverse action or change in training programs, and changes the period of issuance and requires the annual renewal of registration and allows the Board to charge a fee for such renewal consistent with the 1977 statute.

Senator Bock asked why it is important to notify the reason why a person has left the program. **Ms. Kerr** replied that it is not important to notify the reason why, just that the person left the program. We would probably investigate to find out why they left the program. **Senator Bock** asked why it is important to give notification that a person has left a program. **Ms. Kerr** replied that it would be important if they found out it was due to patient care issues while they were in training. Most of the time when a person leaves the program, it is because they either no longer wish to pursue a medical career or they decided another specialty would be more appropriate.

Chairman Heider referred to paragraph 02, and asked if we have a cooperative agreement with Canada to train medical students. **Ms. Kerr** replied that they accept the licensing exams for physicians, and their training programs as accepted as being equal, or in some cases superior, to the United States. This limits our physician rules in that we recognize Canada's training programs as being equivalent to ours.

Senator Schmidt asked about the definition of extern or student as a bona fide student enrolled in an acceptable school of medicine; did it only encompass U.S. schools and not international schools. **Ms. Kerr** that there are international schools that are approved. She indicated that there is the Educational Commission for Foreign Medical Graduates (ECFMG) that oversees the approval of the school or individual and goes through many levels of approval for that school or individual to be acceptable.

Senator Hagedorn inquired about Title 54, Chapter 1806, and asked where might it say that there must be an annual renewal. **Vice Chairman Nuxoll** replied that she had researched the Code and found the requirement, located at 54-1807, that reads: "A registration fee shall be fixed by the board and registration must be renewed annually." She furthered that she could understand that the registration must be done annually, but not the fee, and had a concern.

Senator Hagedorn asked what is the current balance of the Board of Medicine (Board) at the end of every year; is that positive or negative, and is there an issue regarding the spending of the Board where this annual fee is necessary? **Ms. Kerr** replied that there was an approved registration fee of \$10 for residents, and there is a plan to raise that to \$20. The Board may charge a renewal for registration, and the majority of programs require licensure after one year of training in residency.

Senator Hagedorn asked what was the reason behind increasing the fee from \$10 to \$20. **Ms. Kerr** responded that at that time, they were looking at the fees across the board. The Idaho Board of Medicine does not increase their fees very often; as a matter of fact, it has been twelve years in between fee increases for physicians. This past year, with the zero-based budgeting, we reviewed all fees, and we have one of the lowest registration fees for residents in the United States.

Senator Guthrie inquired about Sections 016.03.a. and 016.03.h., and asked Ms. Kerr to explain the justification of including that, since the language was strong. **Ms. Kerr** replied that currently, there are two residents who are in a recovery program while they are in residency training. The issues were discovered on application when they disclosed charges of DUI. They came before the Board, the Board considered some of the information that they had received, and they went for an evaluation. It was determined that they did, in fact, have issues with drugs or alcohol at that time and they are in a monitored program while they are in training. That did not prompt Section h, however; that was listed in our previous rules, and is just renumbered. It just means that if the application lacks information, we are allowed to ask for additional information in support of the application.

Senator Guthrie stated that he agreed with Senator Lakey and was concerned that the non-guilty would have to disclose any criminal charges; and that through no fault of their own, they were falsely accused. The Criminal Justice System makes mistakes, too, and this is creating a cloud over their title, so to speak. This seems to be more aggressive than it needs to be and it could just specify someone who has been convicted.

Senator Schmidt commented that people who are applying for privileges to practice, and that full disclosure is proper when people want to practice. He furthered that in his opinion, full disclosure, even when it includes someone falsely accused, should be allowed in order for the Board to adjudicate that. He stated that if the Board is disallowed that, it would not be able to function in a judicious fashion. He stated that doctors are expected to disclose every claim. The claim is explained to the Board in terms of what happened and how it turned out. Full disclosure is looked at critically and he supported it.

Senator Bock commented that he recalled on his application to the state bar in California and Idaho, the expectation was for full disclosure as well, and this is not a departure from that.

Senator Hagedorn commented that he felt Senator Guthrie had valid concerns, and although he appreciates the depth at which the Board goes; however, if someone is charged with child abuse or a sexual crime and then found not guilty, why is that applicable to the professional ability of a person that is being reviewed. There are a number of charges where the person was found not guilty of the criminal charge. Conviction is perfectly acceptable on the disclosure, but his concern was the charge.

Vice Chairman Nuxoll commented on the fee, and stated that while the amount may not be much, it does not state whether it needs to be charged annually.

Senator Bock commented on who should pay for the processing of the right to practice, the taxpayer of Idaho or the applicant. He felt the applicant should be the one to pay.

MOTION:

Chairman Heider moved to approve **Docket No. 22-0102-1201**. **Senator Lodge** seconded. The motion carried by **voice vote**. **Senator Hagedorn** and **Senator Guthrie** voted nay, and wished to be recorded.

**Docket No.
22-0103-1201**

Relating to Rules for the Licensure of Physician Assistants. Ms. Kerr stated that **Docket Number 22-0103-1201** is a pending fee rule of the Idaho Board of Medicine, these rules were published in the October 3, 2012 Idaho Administrative Bulletin Volume 12-10 (page 493-495). A Public Hearing was held October 23, 2012 and no comments were received. The rules were published without change as pending rules in the January 2013 Idaho Administrative Bulletin.

She furthered that the rule:

- adds the provision for a temporary license exclusively for those applicants awaiting the outcome of the criminal background check;
- clarifies that all fees are non-refundable;
- adds a fee range for a temporary license and provides for prorated fees; and
- clarifies that a license not renewed in two years shall be cancelled and a new application required.

Ms. Kerr informed the committee that the following changes were being made:

- Section 022 - Defines a temporary license that may be issued exclusively to applicants who are awaiting the outcome of a criminal background check;
- Sections 051 - Clarifies that all fees are non-refundable;
- Section 051.06.n. - Adds a fee range for a temporary license consistent with other professions licensed by the Board of Medicine and provides for a prorated fee; and
- clarification that a license not renewed within two years shall be cancelled and a new license application required.

MOTION:

Senator Schmidt moved to approve **Docket No. 22-0103-1201**. **Senator Martin** seconded. The motion carried by **voice vote**.

**Docket No.
22-0113-1201**

Relating to the Rules for the Licensure of Dietitians (pending fee rule). Ms. Kerr informed the committee that **Docket Number 22-0113-1201** is a pending fee rule of the Idaho Board of Medicine, and these rules were published in the October 3, 2012 Idaho Administrative Bulletin Volume 12-10 (page 506-509). Licensees were also notified in the summer 2012 newsletter. A Public Hearing was held October 23, 2012 and no comments were received. The rules were published without change as pending rules in the January 2013 Idaho Administrative Bulletin.

She informed the committee that the rule adds the web address, eliminates multiple paper copies of documents in favor of one electronic copy, and adds a severability clause; the rules clarify the authority of the Board in disciplinary matters and clarifies the grounds for discipline consistent with other professions licensed by the Board; and the rule establishes a fee range schedule for applications, renewal and license reinstatement and allows the Board to charge for extraordinary expenses.

Ms. Kerr advised the following changes were being made:

- Section 006.05 - Adds the Board web address;
- Sections 007 - Eliminates multiple paper copies in favor of a electronic copy;
- Section 008 - Adds a severability clause;
- Section 032.01.02 - Clarifies the disciplinary authority of the Board to include suspension, revocation and probationary conditions;
- Section 032.02.c. - Adds specific grounds for discipline consistent with other professions licensed by the Board of Medicine;
- Section 041.01-03 - Provides a fee range for initial applications, renewals and reinstatement; and
- Section 041.07 - Allows the Board to charge for extraordinary expenses.

Senator Schmidt asked that in regard to Section 32.01.k, what was the definition of "former patient." **Ms. Kerr** replied that a former patient is a person that you would have influence on, based on your profession, even after they have ceased to be a patient. For a physician, that would be for a much longer period of time. For a dietitian, it would be to a lesser degree.

Senator Hagedorn commented that he is struggling with the fees in general. Some of these fees are going up between 30 and 90 percent. He asked how these fee increases are going to impact the operating budget. **Ms. Kerr** responded that the Board of Dietitians (Board) actually imposed a \$20 fee increase in 2010. The rules had a restriction that we could not implement that high. They made a recommendation to the Board of Medicine that the fee increase was to cover their operating costs.

Senator Hagedorn expressed concerns over increases such as this without justification as to why this increase is important to the operation of the Board. He inquired if there was a way we can get a snapshot of what the expenditures and budgets are. **Ms. Kerr** replied that the costs include: the cost of processing those applications; holding meetings; the Board paying for fares when meetings are held; the Board paying for travel expenses to the meetings; the cost of administration; costs for publishing rules; and the like.

Senator Hagedorn stated that he is trying to understand a fee increase and what the revenue is for the board that is making the request, and why that increase is important to balance the revenues and expenditures. **Ms. Kerr** responded that each individual board is presented with a breakdown, and that is what is presented to those boards.

Senator Lakey asked that the fees that are about to be approved state "no more than" - so does that mean that the Board has set the fees lower and you have the authority within the Board's discretion to increase those? **Ms. Kerr** replied that it is a cost-saving measure for the Board, and we are a conservative board. I think the history shows that this Board has not had any kind of fee increase since 1994 or 1998. The fee is based on that individual Board's expenses and revenues, and the cost of administering the Board.

Senator Lakey then asked how these fees compare to others in the region. **Ms. Kerr** responded that we are a very low fee state for our professional licensing. Comparatively, for example, some physician licensures in other states run \$1,000 or more for an initial license. I think we handle our fees very efficiently. I cannot say what dietitians across the United States, but this particular fee increase was also run through their association, and the association saw no problem with that fee increase.

MOTION:

Senator Guthrie moved to approve **Docket No. 22-0113-1201**. **Senator Hagedorn** seconded. The motion carried by **voice vote**. **Vice Chairman Nuxoll** voted nay, and wished to be recorded.

Senator Guthrie wished to comment that it was not his intention to be contrary, but wanted to refer back to page 10 of the Pending Fee Rules Review Book. He directed the committee to the last sentence of Section 016.03, which states: "The application form shall be verified and shall require the following information:..." Under "b.", it says: "The disclosure of any criminal convictions, criminal charges, medical disciplinary actions or medical malpractice actions, whatever the outcome, involving the extern, intern or resident." The language already exists, and it is troublesome when you add language that is already in place, and then coupled with something as broad as the word "whatever" interjected. It concerns me, and I just wanted to express that, and thank you for that indulgence.

PASSED THE GAVEL:

Vice Chairman Nuxoll passed the gavel back to Chairman Heider.

Chairman Heider thanked Ms. Kerr for coming. He extended an invitation to anyone in the Medicare and Medicaid community to attend the Joint Health and Welfare Committee meeting with the House and Senate on February 8. We will allow for testimony by anyone in the community that wishes to come in and express their opinions.

CONVENED:

There being no more business before the committee, **Chairman Heider** adjourned the meeting at 4:15 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, January 28, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the January 15, 2013 Meeting	Chairman Heider, Senator Bock
Hearing	Confirmation hearing of Sue A. Payne to the Idaho Commission for the Blind and Visually Impaired to serve a term commencing September 20, 2012 and expiring July 1, 2015.	Sue Payne
BUREAU OF OCCUPATIONAL LICENSES		
Docket No.	PENDING RULES	
<u>24-0601-1201</u>	Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants	Roger Hales
<u>24-1001-1201</u>	Rules of the State Board of Optometry	Same
<u>24-1201-1201</u>	Rules of the Idaho State Board of Psychologist Examiners	Same
<u>24-1401-1201</u>	Rules of the State Board of Social Work Examiners	Same
<u>24-1501-1201</u>	Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists	Same
<u>24-1701-1201</u>	Rules of the State Board of Acupuncture	Same
<u>24-2301-1201</u>	Rules of the Speech and Hearing Services Licensure Board (pending fee rule)	Same
<u>24-2701-1201</u>	Rules of the Idaho State Board of Massage (pending fee rule)	Same

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 28, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairmen Heider** called the meeting to order at 3:00 p.m. and welcomed the audience. He asked the secretary to take a silent roll. He stated that approval of minutes of the January 15, 2013 meeting was first on the agenda.

MOTION: **Senator Schmidt** stated that he has reviewed the minutes. He made a motion to approve the minutes of January 15, 2013. The motion was seconded by **Senator Bock**. The motion was carried by **voice vote**.

Chairmen Heider stated the next order of business is to hold the confirmation hearing for Sue A. Payne of the Idaho Commission for the Blind and Visually Impaired to serve a term commencing September 20, 2012 and expiring July 1, 2015. He welcomed Sue to the microphone.

HEARING: **Sue Payne** thanked the chairman and members of the committee. She stated she has lived in Idaho for 34 years, in Idaho Falls and Boise. She reviewed her credentials. A copy of her resume has been archived and can be accessed in the office of the Committee Secretary (see Attachment 1). She stated she can be of service to the commission because she has a vast knowledge of federal law, the Rehabilitation Act and all of its subsequent amendments, laws and regulations on both the state and federal levels, as well as relevant programs. She stated that she enjoys working with people. **Ms. Payne** stated she is familiar with the legal framework surrounding the program and has helped to rewrite the manual to get it in line with laws and regulations. She stated she has particularly enjoyed working with the blind. She described experiencing "going under shades" and stated her appreciation for the situations dealt with by the blind. She stated her interest in watching people learn to live with blindness, develop new skills and training, and enter the workforce. **Ms. Payne** asked for questions.

Senator Schmidt asked for a clarification: why does Vocational Rehabilitation not work with the blind and visually impaired? **Ms. Payne** explained that federal law and regulations split the blind from other disabilities probably because they need to undergo different skills training.

Vice Chairman Nuxoll asked what the commission does. How can you help the blind become less dependent upon the commission? **Ms. Payne** stated the whole program is designed with independence as the end goal. Vocational Rehabilitation and the commission are under the same federal law and both focus on trying to get people employed. They assist them with job skills training as well as education. Unemployment among the blind has increased, as well as everyone else, which is a concern.

Senator Nuxoll inquired as to what kind of jobs the blind can do. **Ms. Payne** answered just about anything. The only restriction is jobs that require great vision. Examples of feasible jobs include banking, government, business ownership, and retail; basically any type of job.

Senator Hagedorn asked Ms. Payne to describe the current outreach efforts the commission has with universities and colleges. He asked if there are shortcomings in that effort and what she would be able to do to address them. **Ms. Payne** responded that the commission has a close relationship with universities and colleges because each of them have a disabilities office to assist people with disabilities. She said it is difficult for students who are blind to navigate campuses and there is effort to assist them. She stated the relationship between the commission and these disabilities offices are important. **Ms. Payne** stated that sometimes professors perceive challenges regarding how to teach a person with a disability and one of the best things the commission can do is communicate with them.

Senator Hagedorn stated that he works with the Wounded Warrior Foundation, who have worked with three blind veterans attending Boise State University (BSU). He stated that they have had issues concerning teaching math to the blind veterans. He said teaching algebra to blind students seems to be almost impossible. **Senator Hagedorn** went on to say that we expect our colleges and universities to be prepared to teach to the disabled, but his experience has shown him that they are still a long way from reaching that goal. He hopes the commission can focus on not only getting disabled students into the classroom, but also what happens in the classroom. He thanked Ms. Payne for stepping up and doing the important work that she has done. **Ms. Payne** thanked Senator Hagedorn.

Senator Lodge thanked Ms. Payne for volunteering and stated her appreciation for her service on the commission and the wealth of experience she brings to the position. She described the experience of Mike Gibson, a blind student, who traveled to the statehouse to testify. She was impressed by him. She thanked the board for all the work that they do. **Ms. Payne** thanked Senator Lodge.

Chairman Heider commented on Ms. Payne's resume and stated that she exemplifies what a good samaritan is. He said the committee looked forward to her confirmation and thanked her for coming.

Angela Jones, Administrator Equal Opportunity Employer, stated her support for the confirmation of Sue Payne.

**PASSED THE
GAVEL:**

**DOCKET NO.
24-0601-1201**

Chairmen Heider passed the gavel to **Vice Chairman Nuxoll**, who then called on Mr. Roger Hales to present the rules.

Relating to Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants (pending rule). **Vice Chairman Nuxoll** recognized **Mr. Roger Hales**, who informed the committee that the board regulates the practice of occupational therapists in the state, and that the board is served by the Bureau of Occupational Licenses. The board is altering its rules to consolidate by reference the updated Certification Renewal Handbook chart correlating to continuing education, published by the National Board for Certification in Occupational Therapy. The proposed rules clarify close supervision, as well as removes the requirement that two continuing education units (CEUs) must be recommended by the Idaho Occupational Therapy Association to follow changes in the law.

Senator Martin asked what the difference between providing daily direction and checks every two weeks. **Mr. Hales** responded that daily direction refers to the regularity of communication and the two week checks are on-site inspections.

Senator Lakey inquired if the two week time frame was standard for the industry. **Mr. Hales** responded that he was not sure if it was an industry standard, but the board determines what is appropriate.

MOTION:

Senator Martin moved to approve **Docket No. 24-0601-1201**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-1001-1201**

Mr. Hales reviewed **Docket No. 24-1001-1201**, relating to the Idaho State Board of Optometry (Board). The proposed rules:

- update the rule governing Board meetings to set the requirements of the open meeting law (Section 150);
- update the application section by eliminating an outdated address, simplifying the photo requirement, deleting an exam that is no longer available, and clarified the pass rate on the national and state exams (Section 175);
- correct the name of the national accrediting body of schools of optometry (Section 200);
- make a small change to the continuing education rule to allow for electronic verification of completion of a course (Section 300.07);
- update the code of ethics by recognizing a patient's lawful agent and eliminating an archaic section regarding referrals (Sections 325.02 and 325.04.g.);
- update the rule defining gross incompetence by updating a federal code section and adding a ground for lack of education (Sections 425.04 and 425.14);
- clarify and update the prescription rule for glasses and contact lens (Section 450);
- update the patient record section to require compliance with federal law – specifically, the Health Insurance Portability and Accountability Act (section 475.03);
- update the name of one of the Board's annual renewal fees (Section 575); and
- update the medications that optometrists may use in the diagnosis of conditions of the eye and eyelid, and other small changes to the section (Section 600.01).

Vice Chairman Nuxoll inquired if the rule declaring that contacts and eyeglass lenses may only be dispensed upon a current prescription was any different than it ever was. **Mr. Hales** responded no, this was just making clarification.

Senator Martin inquired that if the provision requiring only licensed physicians to fit contact lenses was a change. **Mr. Hales** responded no, it was not a change.

Senator Lodge referenced page 532, column 3, under "A." She inquired if optometrists can prescribe any medication or if they are limited. **Mr. Hales** responded that he believes there is a limit. He referenced page 533 and explained this rule seeks to clarify guidelines regarding diagnostic medicine to make them similar to guidelines regarding medicine used to treat. He noted that the rule was specifically reviewed by State Medical Association who have not objected. **Senator Lodge** asked if it was also reviewed by the Board. **Mr. Hales** responded that a representative of Optometrists was involved.

Senator Lakey inquired if there was a typo on page 530, at 06.c., referring to subsection 450.05.b. He asked if it referred to 05. written above, relating to Expired Contact Lens Prescription, which does not have a "b", or was he mistaken? **Mr. Hales** responded that he believes it is a typo. **Senator Lakey** suggested that it was possibly intended to go with 450.06.b. **Mr. Hales** responded that he believed it was intended for 450.06.b., and the point is, no matter who dispenses medication, the prescribing physician is responsible to the patient. **Senator Lakey** inquired if the 75 percent pass rate was a state or national standard. **Mr. Hales** responded that there are two pass rates: one is a national standard and the other is set by the Board.

Senator Schmidt inquired if these rules would affect people buying contacts online. **Mr. Hales** responded no, not if they have an up-to-date prescription. He explained some contact providers do not require up-to-date prescriptions, but he is not sure if there is legal authority to enforce this rule across state lines.

MOTION: **Senator Hagedorn** moved to approve **Docket No. 24-1001-1201**. **Chairman Heider** seconded the motion. **Vice Chairman Nuxoll** inquired about what should be done with the typo. **Mr. Hales** stated he believed the Board could make the change, and **Senator Lodge** and **Senator Bock** agreed. The motion carried by **voice vote**.

DOCKET NO. 24-1201-1201 **Mr. Hales** reviewed **Docket No. 24-1201-1201**, relating to the Idaho State Board of Psychologist Examiners. The rules are being updated to:

- provide additional flexibility in meeting the continuing education requirements of licensure;
- expand the course providers for continuing education (Section 402.03); and
- expand the number of courses available by teleconference (Section 402.08).

Senator Schmidt asked how many licensed psychologist examiners are in the state. **Mr. Hales** responded there are three hundred-fourteen, and another eighty-five that have inactive status.

Senator Hagedorn inquired about why there are limits on continuing education credits from sources not listed, but there are no limits on them from the listed sources. **Mr. Hales** responded that the listed entities provide the best education so credits from these are unlimited, but other sources can provide these credits and the goal is to provide flexibility for those needing continuing education credits.

MOTION: **Senator Martin** moved to approve **Docket No. 24-1201-1201**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 24-1401-1201 **Mr. Hales** reviewed **Docket No. 24-1401-1201**, relating to the Rules of the State Board of Social Workers Examiners. The rule:

- clarifies the definition of a relative for purposes of the code of conduct (Section 010.04);
- clarifies the independent practice of social work (Section 201.04);
- clarifies the supervision requirements for independent and clinical licensure through the creation of new supervision sections;
- requires renewal of a supervisor registration every five years (Section 211.03);
- clarifies inactive licenses (Section 225);
- updates the examination process (Section 350); and
- changes the code of professional conduct to clarify appropriate relationships between a licensee and client (Section 450.01.i.).

Senator Hagedorn inquired about the logic behind not allowing individuals with certain levels of education to enter into private practice, and asked if there are any of these individuals in private practice currently. **Mr. Hales** responded that requirement is in line with industry standards and, to his knowledge, none of these individuals are currently licensed to practice privately. He deferred to Robert Paine, private practitioner. **Mr. Paine** explained that the term "private practice" refers to accepting third party payments, for example, from insurance companies. He stated this provision takes nothing away, only provides clarity to existing rules.

Senator Hagedorn inquired if a social worker with a Bachelor's degree is prohibited from opening a private practice to do marriage counseling. **Mr. Paine** stated they are not allowed because they do not have the proper education to provide that service. **Senator Hagedorn** asked if Master's level individuals can function at that level but are precluded. **Mr. Paine** stated the restrictions on these individuals are in place to protect the public. He stated a Master's level social worker can engage in private practice with clinical supervision. **Senator Hagedorn** explained his concern is, given the shortage of mental health workers in the state, more opportunities should be available for those that can provide this service. **Mr. Paine** responded that the board is sensitive to the shortage, but easing restrictions would be at the detriment of public safety. He stated these rules do not place any further restrictions on social workers; they only clarify existing rules.

Vice Chairman Nuxoll asked if she is correct in her understanding that there is no change in this section. **Mr. Paine** responded that there are no changes regarding independent and private practice guidelines, only requirements concerning supervision.

Senator Guthrie explained he understands the difference between independent practice and private practice to be their ability to bill. He stated there seems to be inconsistency in the testimony and the language of the rules. He asked why these changes were made and asked for examples of issues that led to the change, because he doesn't understand how this protects the public. **Mr. Paine** asked for clarification to the question. **Senator Guthrie** clarified he is concerned about the difference in the ability to bill. **Mr. Paine** explained that the term private practice should be changed to third party payments because the language is outdated, as it was created in 1971. He stated those in the field understand the rules.

Senator Hagedorn asked if Bachelor level and Master's level social workers are essentially required to work for someone else in order to practice their skills. **Mr. Paine** responded no, independents need to contract with providers but are not necessarily employed by them. He stated those who are not qualified need to be supervised.

Vice Chairman Nuxoll urged conclusion to the questioning.

Senator Hagedorn stated his concern is the restrictions on social workers. He stated he is concerned that educated social workers are not able to set up a private practice rather they are required to work under an organization or institution. **Mr. Paine** responded that under-educated social workers need supervision because they are potentially dangerous; this is a public safety issue.

Mr. Hales referred to page 531 for a clarification of definitions of the various levels of social workers.

Senator Schmidt inquired if there is a charge to social workers to get supervision. **Mr. Hales** deferred to Mr. Paine. **Mr. Paine** responded that sometimes it's free and sometimes there is a charge; it depends on the circumstances of the supervision.

Vice Chairman Nuxoll asked for a definition of romantic. **Mr. Hales** responded that determining what is romantic is subject to the Board; however, there is a process to challenge any decision by the Board.

Senator Lakey inquired into the language regarding restrictions on social workers relationships when it has potential to be harmful to the client. **Mr. Hales** stated these mental health situations are a little different than other fields. This language refers to relationships with those having close personal relationships with the client. **Senator Lakey** asked for clarification that the language regarding restrictions on relationships that may be potentially harmful to the client only refer to relationships with those having close personal relationships to the client and not the client. **Mr. Hales** responds yes, there are different liability sections.

Senator Bock stated that in the legal profession, there are also restrictions on how individuals are allowed to practice at various skill levels. There is an issue of conflict of interest. The restrictions on private practice are professional standards used across many professions in order to protect the integrity of the profession.

Senator Lakey referred to page 546 and asked if the committee could reject a portion of the proposed rule regarding a two year requirement of practicing in Idaho. **Mr. Hales** responded that the House had approved the language, so if the Senate rejects it, the rule would be in limbo. He stated the Board will examine this section in the future.

MOTION: **Senator Bock** made the motion to approve **Docket No. 24-1401-1201**. The motion was seconded by **Senator Martin**.

DISCUSSION: **Senator Hagedorn** stated his concern regarding the restrictions on social workers to go into private practice. He stated he is concerned these restrictions are not in the public interest, but are an economic interest. Social workers getting out of college should have more options and there is a need for more social workers in Idaho. He stated that we need to change the way we do this if we want different results. He stated he will not be voting for the bill. **Vice Chairman Nuxoll** agreed, and stated she will not, either.

Senator Bock stated his concerns. He recounted graduating in the top ten percent of his class, but not being capable of practicing law on his own. He stated the need for training in the field in order for graduates to learn skills. He stated that these kinds of standards provide protection to the public and the profession and he objected to the idea that the current system is not working properly. **Senator Lodge** agreed, and she cited how teachers need to learn from experienced teachers, and that mentoring and guidance are important.

ROLL CALL VOTE: **Chairman Heider** and **Senators Lodge, Martin, Bock** and **Schmidt** voted aye. **Vice Chairman Nuxoll** and **Senators Hagedorn, Guthrie** and **Lahey** voted nay. The motion carried by a 5-4 **voice vote**.

DOCKET NO. 24-1501-1201 **Mr. Hales** reviewed **Docket No. 24-1501-1201**, relating to the Idaho State Board of Professional Counselors and Marriage and Family Therapists. The proposed rules:

- makes a change to Section 044.01 to delete unnecessary language;
- adopt the New Code of Ethics for marriage and family therapists in the incorporation by reference of Section 004.02;
- clarifies supervised experience for marriage and family therapists, as well as continuing education; and
- specify the documentation essential for informed consent between the licensee and client.

There were no questions from the committee.

MOTION: **Senator Guthrie** made the motion to approve **Docket No. 24-1501-1201**. The motion was seconded by **Chairman Heider**. The motion carried by **voice vote**.

DOCKET NO. 24-1701-1201 **Mr. Hales** reviewed **Docket No. 24-1701-1201**, relating to the Rules of the State Board of Acupuncture. The rules:

- clarifies acceptable course providers;
- changes to the continuing education requirements to create two separate categories to ensure continuing education in both Oriental theory and Western medical theory in the practice;
- clarify and set a deadline for the release of patient records; and
- provide for disclosure of fees to the patient, clarify the nature of activities performed by unlicensed employees and non-exempt individuals, provide for supervision of trainees and technicians, and clarify the limits on advertising.

Vice Chairman Nuxoll inquired if these rules increase the cost or training in either Oriental and Western medicines. **Mr. Hales** responded the rules do not increase the amount of overall training.

MOTION: **Senator Martin** made the motion to approve **Docket No. 24-1701-1201**. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel back to the Chairman.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 4:48 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, January 29, 2013

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Approval of the Minutes of the January 14, 2013 Meeting	Senator Martin and Senator Bock
Hearing	Committee consideration of the Gubernatorial appointment of Sue A. Payne to the Blind and Visually Impaired	
PENDING RULES		
DOCKET NO:	BOARD OF NURSING	
23-0101-1201	Relating to the Idaho Board of Nursing	Sandra Evans
23-0101-1202	Relating to the Idaho Board of Nursing	Same
BOARD OF PHARMACY		
27-0101-1201	Relating to the Rules of the Idaho State Board of Pharmacy	Mark Johnston
27-0101-1202	Relating to the Rules of the Idaho State Board of Pharmacy	Same
27-0101-1203	Relating to the Rules of the Idaho State Board of Pharmacy	Same
27-0101-1204	Relating to the Rules of the Idaho State Board of Pharmacy	Same

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, January 29, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:02 p.m.

MINUTES: **Chairman Heider** asked for the approval of the January 14, 2013 Senate Health and Welfare Committee minutes.

MOTION: **Senator Martin** moved to approve the January 14, 2013 minutes as written. The motion was seconded by **Senator Bock**. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT HEARING: **Chairman Heider** asked for the committee's consideration of the Gubernatorial Appointment of Sue A. Payne to the Idaho Commission for the Blind and Visually Impaired. **Senator Martin** asked if political party affiliation had anything to do with appointments. (See Attachment 3 for Senator Schmidt's research on Senator Martin's question.)

MOTION: **Vice Chairman Nuxoll** moved to send the Gubernatorial Appointment of Ms. Payne to the Idaho Commission for the Blind and Visually Impaired to the floor with recommendation that it be confirmed by the Senate. **Senator Bock** seconded the motion. The motion carried by **voice vote**. **Senator Bock** said he will carry the appointment to the floor since Ms. Payne is in his district.

PASSED THE GAVEL: Chairman Heider passed the gavel to Vice Chairman Nuxoll.

DOCKET NO. 23-0101-1201 **Sandra Evans**, Executive Director of the Idaho Board of Nursing, said **Docket No. 23-0101-1201** constitutes administrative rules necessary to support statutory changes enacted by the 2012 Idaho Legislature. (See Attachment 4 for presentation speech.)

Vice Chairman Nuxoll asked Ms. Evans to explain the restrictions for nurses on prescribing/dispensing medication. **Ms. Evans** said before advanced practice nurses can prescribe and dispense they must have a provider-patient relationship established. The change in the statute last year allowed an exemption for those providers who, for instance, might be prescribing and/or dispensing in cases of an emergency or an epidemic where the prescribing and dispensing is for the better good of the public and they couldn't have had established that relationship. The statute has gone into effect but the administrative rules were inconsistent with that exemption so it allows for that now to happen with advanced practice nurses as well. **Vice Chairman Nuxoll** asked if the nurses can prescribe/dispense even if it isn't an emergency. **Ms. Evans** said there are clear provisions in the statute that define situations when it would be appropriate for that to happen.

Chairman Heider asked for Ms. Evans to define what a matriculated student is. **Ms. Evans** said a matriculated student is a student who is acquiring credits that lead toward a degree that will be conferred – as opposed to a non-matriculated student who is going to college and picking up arbitrary courses not necessarily leading to a degree that would be conferred.

Senator Lakey asked if a certified nurse midwife can perform surgical type of procedures. **Ms. Evans** said they could perform relatively minor procedures directly related to the scope of practice in the prepartum, postpartum and antepartum care of women. An example would be an episiotomy. **Senator Lakey** asked if a certified registered nurse anesthetist had full use of anesthetics. **Ms. Evans** said their scope is quite broad.

MOTION: **Senator Martin** moved to approve **Docket No. 23-0101-1201**. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 23-0101-1202 **Ms. Evans** went over the changes reflected in **Docket No. 23-0101-1202** and what those changes accomplish. (See Attachment 5 for presentation speech.)

MOTION: **Chairman Heider** moved to approve **Docket No. 23-0101-1202**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Nuxoll introduced Mark Johnston, Executive Director of the Idaho Board of Pharmacy. **Mr. Johnston** first noted that he teaches pharmacy law at Idaho State University and recognized a group of students in the audience who were present to get extra credit. **Mr. Johnston** then gave an overview of the Board of Pharmacy. (See Attachment 6.)

Mr. Johnston said he was requesting adoption of four dockets of rules. Two of them contain changes to the same rule which is a definition section. **Mr. Johnston** said the board promulgated 72 pages of new rules last year, made a few mistakes and aim to fix those today. The board's licensees and registrants demand a certain level of performance and the board engaged in much negotiated rulemaking, fulfilling the public's various requests. The board held two negotiated public rulemaking sessions and, in total, received 18 pieces of public comment during the official 21-day public comment period in October alone.

DOCKET NO. 27-0101-1201 **Mr. Johnston** said **Docket 27-0101-1201** contains non-substantive changes; housekeeping. He said there was no real public comment believed to be controversial. (See Attachment 7.)

MOTION: **Senator Martin** moved to approve **Docket No. 27-0101-1201**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

Mr. Johnston said **Docket No. 27-0101-1202** is quite lengthy and consists mostly of corrections such as eliminating a page and a half of print that was word for word out of a Food and Drug Administration (FDA) publication called the "Orange Book" which lists generics that are able to be substituted for a brand-name product. Now, the Orange Book is just incorporated by reference. **Mr. Johnston** said the board also added the "Green Book," which lists veterinarian products that are able to be generically substituted, to the selection criteria. (See Attachment 8 for presentation on docket corrections.)

Senator Lodge mentioned the Epilepsy Bill (HB 534) that passed through legislature approximately a year ago and asked Mr. Johnston to refresh her memory in regard to drug substituting. **Mr. Johnston** said there are two different terminologies: generically selecting and generically substituting. In some states they mean one in the same. Generic substitution is not really a term that's legal in Idaho. Pharmacists generically select a product that is bioequivalent, therapeutically equivalent, listed in the Orange Book and, according to the FDA, they're interchangeable – that's what the Epilepsy Bill referred to. When a pharmacist generically selects, there were certain notifications that had to happen after the fact. **Mr. Johnston** said generic substitution is a whole different category where, in a hospital or nursing home, there's a formulary committee that says that you're able to substitute one drug for another drug that isn't a generic but it's in the same drug class.

Vice Chairman Nuxoll asked if a pharmacist can substitute a generic drug for a brand name drug and if the patient is informed. **Mr. Johnston** said many states, including Nevada, have moved to a model where pharmacists have to dispense the generic if there's one available – they have to generically select it in the name of increased costs and the cost of healthcare. **Mr. Johnston** said Idaho hasn't gone that far and leaves the professional judgment up to the pharmacist if they want to generically select a product, which has to be A-rated in the Orange Book. There's no notification that has to be given except in the case of epilepsy drugs and certain circumstances which are in statute. Generic substitution is a whole different category and only happens in a nursing home and a hospital. An example of a generic selection would be that a doctor prescribed Motrin and the pharmacist dispensed ibuprofen. Generic substitution is the doctor prescribed Motrin, and Aleve – another anti-inflammatory, but not the same drug altogether – was dispensed. **Mr. Johnston** said since substitution only happens in a nursing home or a hospital where there are in-patients who may be incapacitated; there's certainly no patient notification or approval process. As a physician, when you sign on to have prescriptive rights in the hospital, you have the understanding that there's a formulary and the drug that you prescribe might be switched to another drug in that class. It's just one of your conditions of employment and it has existed for decades. **Vice Chairman Nuxoll** asked, yes or no, can a pharmacist not substitute a generic drug for a brand-name drug, in a regular pharmacy, without notifying the patient. **Mr. Johnston** said that really isn't a yes or no question. Can you select a generic drug without notification? Yes. Can you substitute? That really doesn't exist. **Mr. Johnston** said you don't 'substitute' a generic drug for a brand name drug, you 'select' a generic drug for a brand name drug. And, in a retail pharmacy, if a generic drug is selected for the brand-name drug, there's no notification requirement except on the label – the pharmacy is required to list the drug that was generically selected as well as the brand-name medication prescribed. No other notification is required unless it's the first time ever and you're required to be counseled, unless you refuse to accept the counseling.

Senator Guthrie asked, in regard to dispensing of medications to jails, if there's a hiccup, the drug is dispensed wrongly and there's a problem – where would the liability rest. **Mr. Johnston** said the pharmacist is always responsible for a misfilled prescription. Even if there were students or technicians that helped, it clearly goes to the pharmacist who did the final check. If the pharmacist did their job and adequately labeled the prescription and it was someone else who administered the medication incorrectly, then it would be the person responsible for the incorrect administering. **Mr. Johnston** said if a drug is incorrectly prescribed, there is a shared responsibility between the prescriber and the pharmacist – the pharmacist is the safety veil and is supposed to catch errors that a prescriber might make.

Senator Lakey asked if a doctor specifically prescribes a brand name only, then a pharmacist can't do generic selection. **Mr. Johnston** said that was correct. **Senator Lakey** asked what the requirements were for a mail order, out-of-state pharmacy to be able to provide medication to people in Idaho. **Mr. Johnston** said there is a registration process for the parent facility that specifically says they can only select or substitute according to Idaho law. There are very few other responsibilities. **Mr. Johnston** said there is a docket of rules that he hopes the committee hears later this session after a bill passes on the exact same subject. The bill, which has been sent to print and has already had its RS hearing, further addresses the out-of-state mail service pharmacy act. It will wrap it into the Idaho Pharmacy Act and strike the entire out-of-state mail service pharmacy act. The current regulation is lacking and the board aims to fix that later this session. **Senator Lakey** asked if there are some requirements mail order pharmacies have to follow. **Mr. Johnston** said, the way it reads currently, is if the Idaho board notices an issue, it can ask the home state board of pharmacy to address the issue. If the home state board of pharmacy initiates an investigation within 45 days, Idaho has to accept their ruling and can't do anything else. If the home state board doesn't initiate an investigation within 45 days, and there's serious psychological or serious physical damage done to an Idaho resident – not just a misfill that wasn't ingested – then the Idaho board can initiate its own investigation.

MOTION:

Senator Bock moved to approve **Docket No. 27-0101-1202**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
27-0101-1203**

Mr. Johnston said **Docket No. 27-0101-1203** was created for two reasons. One, with a complete rules rewrite last year, the board regulated, for the first time, Automated Dispensing and Storage systems (ADS) – Pysix-type machines in hospitals, Parata-type in retail pharmacies and InstaMed-type machines in doctors' offices and pharmacies. ADS systems are machines that categorically store drugs for use by prescribers, nurses or pharmacists. There are various parameters as to who can have access, what the security is, what drugs can be included, etc. It was really an unregulated practice before this. But, there are some enhancements and the Idaho Society of Health-System Pharmacists, among others, came forward and asked for the changes. During a lengthy negotiation, everyone agreed on the changes. (See Attachment 9 for changes.)

Senator Schmidt asked about a section of the rule book that referred to vending machines. **Mr. Johnston** said the section Senator Schmidt was looking at pertained to the types of vending machines that can be found in places such as hotels and contain medicine such as Advil. The ADS section in the rule book, while it looks like a new rule, was derived from another rule.

Senator Lakey asked what the phrase "a system must be substantially constructed" meant. **Mr. Johnston** said it's a term borrowed from the Drug Enforcement Administration (DEA) which is used when referring to the enclosure that controlled substances in a prescriber's office have to be locked within. A pharmacy is able to intersperse controlled substances within their inventory, which can be better instead of just opening a drawer and giving a robber everything that's in the drawer. A prescriber has to lock their controlled substances up because they have limited amounts of controlled substances and more people that are wandering around that aren't registrants or licensees in a doctor's office. **Mr. Johnston** gave an example of an InstaMed machine going into a hospital that was deemed substantially constructed because it weighed 2,000 pounds and was bolted to the floor. **Senator Lakey** asked about a portion of the rule that required a dispensing machine only dispense drugs or devices that have been previously dispensed to the patient and if that meant nothing new can come out of the machine for a particular individual. **Mr. Johnston** said the board was hesitant in allowing drugs that required consultation and initial fills to be stocked in a machine like that in a retail pharmacy. So, in a pharmacy system – not a prescriber system or an Emergency Room system – they did restrict it to refills only. However, if it's the same drug someone has had for 17 years – and maybe not a refill, but it has been previously dispensed to the person – the pharmacy would be able to put that into the machine.

Vice Chairman Nuxoll asked if there were any complaints to this rule. **Mr. Johnston** said the board did hold two public hearings that were printed in the Idaho Administrative Bulletin. Nothing but support came out of the public comment as well as a comment that was helpful to make the board's rule better. The board didn't see any negative comment.

MOTION:

Senator Guthrie moved to approve **Docket No. 27-0101-1203**. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
27-0101-1204**

Mr. Johnston said that last year, when the board rewrote all the rules regarding **Docket 27-0101-1204**, the practice of pharmacy was affected through the definition of pharmaceutical care. The Board of Medicine had a concern that perhaps the Board of Pharmacy had gone a little bit too far and had dabbled into the practice of medicine as opposed to the practice of pharmacy. **Mr. Johnston** said the Board of Medicine agreed not to testify against the Board of Pharmacy's entire docket of rules for this perception last year as long as the Board of Pharmacy came back and had corrective language this year. (See Attachment 10 for corrective language.)

Senator Hagedorn asked, with the drug shortage component, if any feedback is required to the doctor after a pharmacist does a generic substitution to let the doctor know a change was made in case there is an issue. **Mr. Johnston** said the board entertained that thought, went back to the physicians and the physicians didn't want it. **Mr. Johnston** said physicians are fed up with useless communication and, really, in the delay of therapy of their patients.

Vice Chairman Nuxoll asked if a clinical pharmacist gives out prescriptions. **Mr. Johnston** said the term clinical pharmacist is not a term that's recognized in law but it is a term that some other states hand out certifications for and a term that is being taught in the universities. Really, a pharmacist that works in a retail pharmacy is a clinician also. They counsel, they catch drug interactions and some would argue that they have the most patient contact and thus are the biggest clinicians. **Vice Chairman Nuxoll** asked if any pharmacists are allowed to write up prescriptions. **Mr. Johnston** said pharmacists do have two very limited forms of prescriptive authority: one, they can prescribe immunizations and for dietary fluoride supplements, such as chewable tablets or drops; Secondly, the main function of a pharmacist is to dispense drugs pursuant to the prescriptions of prescribers. But, a pharmacy has really evolved into a cognitive services position, too. **Mr. Johnston** said there are many pharmacists who work full time and never see an actual drug. All they are doing is reviewing charts and making more clinical types of decisions.

MOTION: **Senator Hagedorn** moved to approve **Docket No. 27-0101-1204**. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: **Vice Chairman Nuxoll** thanked Mr. Johnston for his time and turned the gavel back over to Chairman Heider.

Chairman Heider thanked Vice Chairman Nuxoll for doing a very nice job on the rules this session. **Chairman Heider** recognized Mr. Johnston's students in the audience and said they not only should get extra credit for coming, but should get A's for sitting through the legislative process. **Chairman Heider** said having done so will bring them more up to speed on what's expected once they become pharmacists.

ADJOURNED: There being no other business, **Chairman Heider** adjourned the meeting at 4:24 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, January 30, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1012</u>	Immunization Registry	Christine Hahn, Public Health Medical Director Department of Health and Welfare
<u>S 1011</u>	Immunization, Registry Information	Same
<u>S 1010</u>	Medicaid, Behavioral Health Services	David Simnitt, Deputy Administrator
HEARING	Confirmation hearing of Allen R. Schneider of the Commission for the Blind & Visually Impaired to serve a term commencing July 1, 2012 and expiring July 1, 2015.	Allen R. Schneider
PRESENTATION	Food Safety Report	Leslie Manookian Patrick Guzzle, Food Protection Program Manager
	US Ecology	Russ Duke, Director of Central District Health Department Jeff Feeler, President and COO of US Ecology, Inc. Simon Bell, Vice President of Operations Terry Geis, General Manager

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, January 30, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:02 p.m.

Chairman Heider said the committee would start its meeting by hearing a presentation on **S 1012** by Dr. Christine Hahn, medical director of the Idaho Division of Public Health in the Department of Health and Welfare. **Chairman Heider** said before the committee makes a motion, members would hear public testimony immediately following Dr. Hahn's presentation.

S 1012

Dr. Hahn introduced herself to the committee and gave background relating to **Senate Bill 1012**, regarding the immunization registry, which amends Idaho Code § 39-4803. **Dr. Hahn** said Idaho's immunization registry, known as IRIS, was established by the legislature in 1999 as a voluntary registry of the immunization status of participants. IRIS is a secure, web-based system that allows participating doctors and other medical providers to access the immunization records of their patients who have not chosen to opt-out. The system avoids unnecessary duplication of vaccines and allows medical providers to identify their patients who are due for immunizations and send them reminders. IRIS also makes school and day care enrollment easier for parents, while not limiting parents' rights to choose to exempt their children from any of the required vaccines. These exemptions are permitted for medical, religious or philosophical reasons. In 2010, the legislature changed IRIS to an opt-out registry, meaning that Idaho residents are included unless they notify us that they do not wish themselves or their child to be included. This process is in place and currently 185 Idaho residents have opted out of IRIS. **Dr. Hahn** said the bill proposes four changes to the registry. (See Attachment 1 for presentation speech.)

Senator Schmidt asked to run through a scenario: a child is given an immunization and entered in the registry, and now custody changes. New parents are now in charge of this child that do not want the information in the registry. Can that information be removed according to their wishes? **Dr. Hahn** replied that yes, currently what would happen is that a one-page form needs to be filled out that has basic information on the child's name, birth date and address, and once that form was filled out, all immunization information would be removed. She furthered that the child's name could also be removed, but then there would be no guarantee the next time that child got a shot from another doctor, the name would go right back into the registry, and that is why it is preferred to keep the child's name in the registry, with no immunization information, so that adding information would be blocked.

Vice Chairman Nuxoll asked what is kept in the registry even if a person opts-out? **Dr. Hahn** replied that all information except the name and date of birth would be removed for the purpose of blocking any new information coming in. Depending on the outcome of the hearing today, the child's name could be removed as well, but then we couldn't guarantee any new information would be blocked. **Vice Chairman Nuxoll** wanted clarification that the only reason for keeping the name and date of birth is to prevent information from accidentally being added, is that correct? **Dr. Hahn** replied that it was correct, there is no ability to run a report on who has opted out, we have no interest in doing so, but need the name and date of birth to block any information from going in. Without the name, there would be no way of knowing a person had opted out the next time they receive an immunization. **Vice Chairman Nuxoll** asked if that was the case, and someone really wanted to look at it, would there be a way to see people who opted out, would they be picked out as not those choosing not to immunize? **Dr. Hahn** replied that would not be the case. It is not interpreted that when someone opts out, they are doing so because they are choosing not to be immunized, but merely that they do not want their name in the registry. The two scenarios are not equivalent at all. **Vice Chairman Nuxoll** asked if it was just an immunization record, or are there other things? If their name is in there, and they don't have anything, it will be obvious they did not want their record kept. **Dr. Hahn** stated the registry only has immunization information, and no other health information whatsoever. We would just not know about the immunization status, and would not think someone is not immunized, because both immunized and non-immunized people could opt-out.

Sen. Hagedorn asked if someone opts-out, is there a way to opt back in? **Dr. Hahn** replied there is a way, the decision is not permanent, and if a person wished to be put in, the information could be unblocked. **Sen. Hagedorn** then asked if a family with a child having his first immunization opted-out initially, would that child's name ever be entered into the database? **Dr. Hahn** advised the committee that currently, the child's name would go in, and we use the birth record to populate the registry at this point. And if a child moves in from out-of-state, a family from out-of-state would fill out our form and say they did not wish to participate. We would prefer to put that child's name and date of birth in to block future immunization information, but never any other health information.

Sen. Guthrie asked if there is an opportunity for someone to keep all information out. **Dr. Hahn** replied that no health information has been going into the registry, and if the law were rejected, we would find a way to continue to keep the child's name out, although it would be difficult to keep all information out. We would need to continually check and take out any information on future immunizations, and would not be as streamlined. **Sen. Guthrie** then asked that the only way to keep that information, including name and basic things out is to, in fact, have another list that indicates people who do not want any information in there, and at some point will be like the chicken and the egg thing. **Dr. Hahn** replied that they have been discussing other options if the law were to remain unchanged, and we would have to create a list of people that had opted out to keep them out of the registry and use it against a list of opted-out people and use it to check it against the registry to make sure that it is the same thing.

Sen. Schmidt asked for clarification that it was mentioned earlier that 185 people had opted out, so you have a sense right now of who is not participating in the opt-out option. **Dr. Hahn** responded yes, we know the number, but we know nothing about those people, because we have no report or list, but only know that they opt-out. We do not have a list of 185 people that is separate from the registry.

Chairman Heider asked if you are one of those 185 people, and you go to the doctor and receive a vaccination, would you be back on the list? **Dr. Hahn** responded that currently, if you are a person that opted out, hopefully you would remind your doctor that you opted out. If you chose not to participate in the registry, and your information gets put in manually or by automatic system, up until now, we would block it because we have retained that name for blocking purposes. If the decision of the body is to not change the statute and that we need to take everything out, and leave the name out, then what might happen is that if the provider may have an automatic system or the patient forgets to remind the doctor, that name could end up in there. Our system would not have a way of knowing to reject them.

TESTIMONY: **Leslie Manookian** spoke about her concerns on **S 1012**. (See Attachments 3a, 3b, 3c.)

Thomas Rand, Tom Patterson, Danielle Ahrens, Wayne Hoffman, Pro-Life and Ryan Carson each gave testimony regarding **S 1012**.

Chairman Heider said the bill was before the committee.

MOTION: **Senator Bock** motioned to send **S 1012** to the floor of the Senate with a do-pass recommendation. **Senator Martin** seconded to the motion.

DISCUSSION: **Vice Chairman Nuxoll** said she had no idea that she and her children were or might be on the IRIS database, and that IRIS was more than just a privacy issue and could be easily abused. **Vice Chairman Nuxoll** said there has been noted controversy regarding immunizations and spoke of a case in Italy where someone was awarded a settlement after their child became autistic. **Vice Chairman Nuxoll** said it is a parent's choice whether or not they want their children to be on a database. Some questions she had about bill: if the committee members are there to make parents' decisions; to make government decisions; for saving doctors money, because they think the doctors know better than the parent what they want to do with their children; or to protect parents' choice. **Vice Chairman Nuxoll** asked how the committee could go against a parent's choice.

Senator Hagedorn said he would like to bring committee members' attention to Title 39-4804 which outlines and discusses the notification to a parent or a guardian. **Senator Hagedorn** said he thinks it is important for committee members to have some time to study it and understand what it says because it is applicable to **S 1012** and, in order for the committee members to be able to do that, they need a little bit of time.

SUBSTITUTE MOTION: **Senator Hagedorn** made a substitute motion to hold **S 1012** subject to the call of the chair. **Senator Lodge** seconded the substitute motion. The substitute motion was carried by **voice vote**.

Chairman Heider said the other items on the agenda would be carried over to a future date, other than the scheduled confirmation hearing.

CONFIRMATION HEARING: **Chairman Heider** said the confirmation hearing was for Allen R. Schneider of the Commission for the Blind and Visually Impaired to serve a term commencing July 1, 2012 and expiring July 1, 2015. **Chairman Heider** asked Mr. Schneider to come forward to speak on why he wants to be on the commission and what he expects to accomplish.

Mr. Schneider introduced himself and spoke of a degenerative eye disease that he has lived with for the last 30 years, which can cause blindness or extreme loss of vision. After years of dealing with his eye disease, he eventually had to quit his 35 yearlong teaching career (his eyesight has since stabilized for the last three years). **Mr. Schneider** said he got to the point where he felt he was just short of being alone in the world until he ran into the Idaho Commission for the Blind, took their classes and went to their training sessions. **Mr. Schneider** said he had such great respect for the commission, the professionalism, how the clients were treated and for the commission's knowledge, that he decided he wanted to do something to give back. Since then, **Mr. Schneider** said he has started a support group in Emmett. He has also started, and is still working on, a statewide program – through various organizations, such as the Lion's Club and the Idaho Lodging and Restaurant Association – to get large-printed Braille menus in all the restaurants in Idaho. **Mr. Schneider** said he wants to give back and, by serving, he will be giving back.

Senator Lodge asked what Mr. Schneider has learned from his time on the commission. **Mr. Schneider** jokingly said he learned that government is a sea of acronyms. **Mr. Schneider** then said, if he had to pick one thing that stood out, it would be meeting people from Idaho centers who have such a passion for helping those who are visually impaired/blind – individuals dedicated to helping people like himself.

Chairman Heider said he appreciated Mr. Schneider's willingness to serve on the commission and that the Senate Health and Welfare Committee would make a recommendation at the next scheduled meeting.

Chairman Heider asked the members of the committee if there was anything else they would like to discuss. He then recommended that committee members make sure to read through legislation completely in order to fully understand it so as to not get off-track when it comes to, sometimes, the testimony that comes before the committee – which can easily happen.

ADJOURNED: There being no further business to come before the committee, **Chairman Heider** adjourned the meeting at 4:38 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, January 31, 2013

SUBJECT	DESCRIPTION	PRESENTER
	Committee consideration of the Gubernatorial appointment of Allen Schneider to the Commission for the Blind & Visually Impaired	
Pending Rules	BUREAU OF OCCUPATIONAL LICENSES	
Docket No. 24-2301-1201	Rules of the Speech and Hearing Services Licensure Board (pending fee rule)	Roger Hales
Docket No. 24-2701-1201	Rules of the Idaho State Board of Massage (pending fee rule)	Same
RS21828	Relating to Food Stamps	Rep. Christy Perry
Presentation	Idaho Academy of Nutrition and Dietetics	RoseAnna Holliday, Idaho Academy President
		SeAnne Safaii, Idaho Academy President-Elect
	Idaho Council on Suicide Prevention	Kathie Garrett, Chair

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, January 31, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:08 p.m.

GUB APPT: **Chairman Heider** asked if there were comments or discussion relative to the Gubernatorial Appointment of Mr. Allen Schneider to the Commission for the Blind and Visual Impaired. **Senator Bock** commented that he was impressed with Mr. Schneider's qualifications.

MOTION: **Senator Guthrie** moved to send the Gubernatorial Appointment of Allen Schneider to the Commission for the Blind and Visually Impaired to the floor with recommendation that it be confirmed by the Senate. **Senator Martin** seconded the motion. The motion carried by unanimous **voice vote**. **Senator Schmidt** will carry the appointment on the floor.

DOCKET NO. 24-2301-1201 **Chairman Heider** turned the meeting over to **Vice Chairman Nuxoll**, who recognized **Mr. Roger Hales** to present **Docket No. 24-2301-1201** (pending fee rule) relating to rules of the Speech and Hearing Services Licensure board. The Board is changing its rules to establish an inactive license status and to add a reduced fee. The rule changes to the provisional permit section clarify the permit requirements and limitations for each licensure category. There is no impact on general funds. The impact on dedicated funds will depend on the number of licensees who choose to convert active licenses to inactive licenses.

Mr. Hales reviewed changes to the rule and called for questions or comments. **Senator Hagedorn** questioned the justification of the \$65 inactive status fee and possible reduction of supervised hours of training. **Mr. Hales** said the \$65 fee was in line with other boards' fees and was applied to maintenance costs. Regarding the required hours of training, **Mr. Hales** replied that the law does require this education and is consistent with other states' rules.

MOTION: **Senator Guthrie** moved to approve **Docket No. 24-2301-1201**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**; **Senator Martin** voted nay.

DOCKET NO. 2402701-1201 **Mr. Hales** reviewed **Docket No. 24-2701-1201** (pending fee rule) relating to the Idaho State Board of Massage. The 2012 legislature passed Senate Bill 1295, which created the State Board of Massage Therapy. These proposed rules implement the provisions of Title 54, Chapter 40, Idaho Code. The board, created in July 2012, regulates the practice of massage therapists in the state and the rule establishes fees for application, original license, annual renewal, endorsement, duplicate license and reinstatement. The fees will be used by the Board of Massage Therapy to administer the provisions of the statute.

Mr. Hales outlined the scope of the rule, including meetings, code of ethics, standards of practice, organization and operation of the board, fees, examinations and continuing education. A question-and-answer period ensued concerning ethics and required waiting period before a massage therapist could engage in a personal relationship with a previous client, which was set at 12 months. He said the number of licensees expected to register this year is estimated to be between 800 and 1,000.

Mr. Hales introduced State Board of Massage Therapy member **Linda Chatburn**, who discussed fees, requisite hours of training and initial education needed to become a licensed massage therapist (typically high school graduation or GED, or equivalent from another country). **Senator Martin** asked Ms. Chatburn to explain her reasons for supporting this rule. **Ms. Chatburn** replied that massage therapists are becoming health care advisors and have reached the level where they are now working in tandem with other health care providers, resulting in the need for regulations. **Senator Schmidt** asked about the major focus on exams. **Mr. Hales** said the exams emphasize specific knowledge and skills based on principles of Western medicine.

MOTION: **Chairman Heider** moved to approve **Docket No. 24-2701-1201**. **Senator Lakey** seconded the motion. The motion carried by unanimous **voice vote**.

RS 21828 **Vice Chairman Nuxoll** turned the meeting over to **Chairman Heider**, who recognized **Representative Christy Perry** for presentation of **RS 21828**, which relates to a change in the delivery date of food stamps. Delivery would be adjusted from single-day issuance to multi-day issuance, occurring over the course of ten days. **RS 21828** was approved by the House of Representatives during the 2012 legislative session. **Representative Perry** reviewed the fiscal impact, estimated to be \$683,200 for implementation and the first year of operation. Ongoing costs are estimated at \$231,600 per year, with that amount being split between state and federal funds. She said some of the cost was for embossing recipients' names onto cards, which will help cut down on fraud. The initial startup money and first year of operation money, received from the federal government as a program "bonus," is being held in reserve by the Department of Health and Welfare. The program would begin March 1, 2014.

Senator Lodge expressed a strong feeling that the money would be better spent educating the individuals who receive food stamps on how to purchase food that is healthy and inexpensive and how to manage their budget throughout the month. **Senator Lodge** also expressed concern that the change will cause confusion and will result in a profusion of phone calls, which the Health and Welfare Department may not be staffed to handle. **Representative Perry** agreed there are other issues that need to be addressed and offered to provide answers to the issues raised when the bill is heard by the committee.

MOTION: **Senator Hagedorn** moved to print **RS 21828**. **Senator Nuxoll** seconded the motion. The motion carried by unanimous **voice vote**.

PRESENTATION: **Chairman Heider** recognized **Ms. RoseAnna Holliday**, President of Idaho Academy of Nutrition and Dietetics (Academy). **Ms. Holliday** introduced associates and students in attendance and referred to the materials distributed to committee members (Attachment 1). She reviewed the registered dietitians and students who are in several committee members' districts and emphasized the ultimate goal of the Academy is to reduce health care costs. She said the Academy is the premier source for reliable, objective food and nutrition information in Idaho with a vision of optimizing the health of Idaho's citizens through education, advocacy and community outreach. The Academy is a nonprofit organization representing over 450 Idaho licensed, registered dietitians.

Ms. Holliday introduced **Ms. SeAnne Safaii**, President-elect of the Academy, who said the majority of those graduating from the Academy find jobs in Idaho, and there will be approximately 20 graduates this year. The primary goal of a dietitian, she said, is to help people. **Ms. Safaii** said good nutrition and exercise is key to preventing many diseases, resulting in a large savings in health care costs. She also said the dietitians work collaboratively with other health care providers and are unique in that they look at each individual from a genetic and biological viewpoint.

Senator Martin asked if there is a member of the Academy on the State Board of Health or on a state agency related to health care. **Ms. Safaii** said there are members who sit on a variety of county boards but not on state boards specifically. **Senator Guthrie** asked if there is a way to educate food stamp recipients on nutrition; if so, how? **Ms. Safaii** said she is not an expert on food stamps but did elaborate on a program called "Cooking Matters," which is geared toward educating both adults and children on how to prepare healthful meals.

Ms. Karen Martz, a registered dietitian, was called upon for further information. **Ms. Martz** explained that there are programs on food nutrition that work with families throughout the state wherever they have extension programs. A discussion ensued concerning education on nutrition. **Senator Hagedorn** asked if there is a transition program to ensure that people who have lost weight through a nutrition and exercise program stay healthy and make the change permanent. **Ms. Safaii** said that it has been found that the best way for anyone to stay on a weight-loss program is if it is community-based.

Chairman Heider thanked the presenters for the information and called on Ms. Kathie Garrett, Chair of the Idaho Council on Suicide Prevention.

PRESENTATION: **Ms. Garrett** referred the committee to materials distributed prior to the meeting (Attachments 2 and 3). The Idaho Suicide Prevention Hotline (ISPH) was launched on November 26, 2012, and continues to establish operations, administration and infrastructure while looking ahead to expending its hours of operation and working on sustainable funding plans. **Ms. Garrett** summarized ISPH's accomplishments and activities from October 2012 through January 2013, reviewing number of calls, repeat callers and other statistics. She emphasized that suicide is one of the easiest deaths to prevent. She said the ISPH is run entirely by volunteers. The agency currently has 49 volunteers. That number will need to be increased to 56 trained volunteers if it is to run from 9:00 a.m. to 9:00 p.m., and to 90 volunteers in order to run 24/7. **Ms. Garrett** recognized Senator Hagedorn as being instrumental in furthering the momentum of ISPH. A question-and-answer period included topics regarding costs, statistics and the council's ability to obtain data from hospitals.

Chairman Heider thanked Ms. Garrett for her presentation.

ADJOURNED: There being no further business to come before the committee, **Chairman Heider** adjourned the meeting at 4:55 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 04, 2013

SUBJECT	DESCRIPTION	PRESENTER
S 1010	Medicaid, Behavioral Health Services	David Simnitt, Deputy Administrator Department of Health and Welfare
PRESENTATION	Food Safety Report	Patrick Guzzle, Food Protection Program Manager
		Russ Duke, Director of Central District Health Department
PRESENTATION	US Ecology	Jeff Feeler, President and COO of US Ecology, Inc.
		Simon Bell, Vice President of Operations
		Terry Geis, General Manager

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 04, 2013

TIME: 3:00 P.M.

PLACE: WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 3:00 P.M. and welcomed the audience. He asked the secretary to take a silent roll.

S 1010 **Relating to Medicaid and Behavioral Health Services.** **David Simnitt**, Deputy Administrator Department of Health and Welfare, requested the committee to send **S 1010** which amends Title 56 Chapter 255 of Idaho Code forward with a do pass recommendation. He advised that the purpose of this bill is to revise sections of the Medical Assistance Program Code that are related to Behavioral Health Services for Medicaid participants. The purpose of this bill is to realign Medicaid behavioral health benefits to allow for a managed care delivery system that includes independent, standardized, statewide assessment and evidence-based benefits as directed by House Bill 260 of the 2011 Legislature. Currently, the Medicaid behavioral health benefits THAT a participant may receive are restricted by specific service limitations outlined in statute and the benchmark benefit package in which the participant is enrolled. These changes will provide the flexibility needed to allow for evidence-based management of behavioral health services through a managed care contract.

Senator Schmidt referenced a change in **S 1010** section (d), and stated he understands inpatient psychiatric services will not be included in Behavioral Health Administrator. **Mr. Simnitt** responded that was correct; inpatient services would not be a part of Behavioral Health Administrator. **Senator Schmidt** inquired about the definition changes under long-term care services. **Mr. Simnitt** referenced paragraph (2) section (a) and described how the bill is moving section (d) under paragraph (5), this change describes that behavioral health services are covered for all plans. He stated the specifics of which can be found in the managed care contract.

Vice Chairman Nuxoll asked if behavioral health services were being moved to managed care. **Mr. Simnitt** responded yes, the move is being made in order to allow the Department of Health and Welfare to follow the direction of the Legislature.

Chairman Heider asked if there was anyone in the audience who wished to testify. Seeing none, he stated the bill was before the committee.

MOTION: **Senator Hagedorn** made the motion to send **S 1010** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**. **Senator Hagedorn** volunteered to carry **S 1010** on the floor.

PRESENTATION: **Patrick Guzzle**, Food Protection Program Manager, presented the Food Safety Report. He indicated that there is a partnership approach between Health and Welfare Food Protection Program, Public Health Districts and Industry to ensure safe food from retail food establishments and food processing firms not subject to federal inspection. Idaho became the first state to hall all public health jurisdictions participate in the National Voluntary Regulatory Food Program Standards in the year 2000. Voluntary standards established by the national Conference for Food Protection is a way to identify and implement the best practices for retail food safety. He continued that the Idaho Food, Drugs and Cosmetics Act (Title 37, Idaho Code) direct public health agencies to remove from commerce, foods known to be or suspected of being harmful. Idaho Food Establishment Act (Title 39, Chapter 16, Idaho Code) directs Public Health Agencies to license and inspect food establishments not subject to other state or federal jurisdiction. Idaho Food Code (IDAPA 16.02.19) delegates inspection authority to health districts, but Health and Welfare does not surrender its own authority.

Supporting documents related to the presentation have been archived and can be accessed in the office of the Committee Secretary (see Attachment 1).

Vice Chairman Nuxoll inquired what fees are charged to businesses for inspections. **Mr. Guzzle** responded that there is a four-tier fee structure; the fee charged depends on the type of business needing inspection.

Senator Guthrie stated that he appreciated that the Health District attempts to provide assistance and education in the process of regulation. He inquired if Mr. Guzzle or the Health agencies are involved in court cases that may result when serious outbreaks occur. **Mr. Guzzle** responded that normally they are not involved; however, the agency does act as an appellate agency.

Senator Hagedorn inquired if the Joint Finance Appropriations Committee (JFAC) reviews the Central District Health Departments (CDHD) budget or if Health and Welfare does. He also inquired if CDHD does zero-based budgeting. **Mr. Guzzle** responded that he is not aware of the budget process for CDHD. He deferred to Sara Stover, Financial Management Analyst Sr., Division of Financial Management.

Ms. Stover stated that the Department of Health and Welfare is not involved with the Central District Health budget. The agency has a quasi-state status and is exempt from zero-based budgeting, but the Department of Health and Welfare has engaged in budgeting education with the Central District Health Department.

Senator Hagedorn inquired who the district reports its budget to. **Ms. Stover** responded budgeting is reported to three places: a district governance board, a statewide board and, by statute, to JFAC.

Mr. Guzzle then introduced Bruce Krosch, Southwest District Health Director, Idaho Association of Public Health. **Mr. Krosch** explained that 17 percent of the district's budget comes from the state and the rest comes from revenues from contract fees.

Vice Chairman Nuxoll inquired if the district receives more revenue from fees than it spends and, if so, what is done with excess funds. **Mr. Krosch** responded that no excess fees are collected and that the fee is set in Idaho Code. He stated 63 percent of the program is funded by state and county funds.

Chairman Heider inquired if the annual license fee covered the cost of inspection or if the department is losing money on inspection costs. **Mr. Guzzle** responded that some of the inspection cost is made up by tax dollars, but he was not sure exactly how much.

Chairman Heider announced that the U.S. Ecology presentation on the agenda was postponed due to time constraints.

ADJOURNED: The **chairman** adjourned the meeting at 3:37 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, February 05, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes of the January 16, 2013 meeting	Senators Lodge and Schmidt
Minutes Approval	Approval of Minutes of the January 17, 2013 meeting	Senators Martin and Schmidt
Minutes Approval	Approval of Minutes of the January 22, 2013 meeting	Senators Bock and Hagedorn
Hearing	Confirmation Hearing of Britt Raubenheimer to the Idaho Commission for the Blind and Visually Impaired to serve a term commencing July 1, 2012 and expiring July 1, 2015.	Britt Raubenheimer
H 16	Relating to Prescription Tracking - Amends existing law to clarify that pharmacists and practitioners may share information.	Mark Johnston, Executive Director of the Board of Pharmacy
PRESENTATION	Overview of the Idaho Criminal Justice Commission (ICJC)	Director Brent Reinke

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 05, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Vice Chairman Nuxoll** convened the meeting at 3:09 p.m.

MINUTES: **Vice Chairman Nuxoll** asked for the approval of the January 16, 2013 Senate Health and Welfare Committee meeting minutes.

MOTION: **Senator Schmidt** moved to approve the January 16, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

MINUTES: **Vice Chairman Nuxoll** asked for the approval of the January 17, 2013 Senate Health and Welfare Committee meeting minutes.

MOTION: **Senator Martin** moved to approve the January 17, 2013 minutes as written. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

MINUTES: **Vice Chairman Nuxoll** asked for the approval of the January 22, 2013 Senate Health and Welfare Committee meeting minutes.

MOTION: **Senator Hagedorn** moved to approve the January 22, 2013 minutes as written. The motion was seconded by **Senator Bock**. The motion carried by **voice vote**.

Vice Chairman Nuxoll introduced Britt Raubenheimer for the confirmation hearing.

CONFIRMATION HEARING: **Ms. Raubenheimer** thanked committee and said she was requesting support for her reappointment for the Idaho Commission for the Blind and Visually Impaired (ICBVI). **Ms. Raubenheimer** said she is from Sandpoint, Idaho and lost her vision about ten years ago. When she heard she was going blind, she thought she would have to give up her career and lose her job – she works as a researcher in water resources and coastal engineering, manages a team of about ten people, does field work, scuba dives for work, reads documents, writes documents on a computer, gives presentations, works with graduate students and travels. **Ms. Raubenheimer** said she probably would have lost her job if not for ICBVI. ICBVI representatives came to her house and taught her about the technology that exists to allow her to keep working. She now has a computer that reads everything that's on its screen to her and allows her to write proposals and give presentations; she has a watch that vibrates so she can tell time; and she has a cell phone with Global Positioning System (GPS). ICBVI also gave her training in mobility, taught her how to use a cane, how to navigate around, cross streets and encouraged her to get her guide dog, Whit. **Ms. Raubenheimer** said ICBVI gave her the training needed to retain

her employment and she wants to pay back some of what they gave to her, which is remaining independent. She said she hopes to continue to use her experience with managing people, working within a budget, etc. to try and help other Idahoans, who are blind or visually impaired, to remain independent and keep working.

Vice Chairman Nuxoll asked what caused Ms. Raubenheimer's blindness. **Ms. Raubenheimer** said the actual cause is uncertain. However, from Magnetic Resonance Imagings (MRIs), doctors could tell that her optic nerves had atrophied. **Ms. Raubenheimer** said she also has deposits on her optic nerve and does have a blood clotting disorder. Doctors think that there was a blood clot that caused the optic nerve in her right eye to, basically, die overnight and that several different small clots caused her to lose the vision in her left eye. **Senator Bock** asked what Ms. Raubenheimer cannot do now that she could before she lost her vision. **Ms. Raubenheimer** said she cannot drive a car. **Senator Bock** asked what creative techniques has she come up with do continue to do daily tasks. The purpose of asking is to help others adopt some of the same creative strategies. **Ms. Raubenheimer** said she organizes a monthly conference call support group in northern Idaho and that group members mostly talk in order to share ideas on strategies of doing various things, such as cooking a fried egg. **Ms. Raubenheimer** said she also has a scuba diving technique – getting oriented to equipment above water – that other scuba divers adopted; how to use a talking computer; training herself to listen to things and remember sounds – such as in flagging, where the flapping of flags lets her know where places/things are; and utilizing Whit, when she is out on the field, to help her find things. **Vice Chairman Nuxoll** said Ms. Raubenheimer has an impressive background and asked if she still gets to use science. **Ms. Raubenheimer** said she still does quite a bit of science and that most of the work she does is physics-based or engineering-based.

Senator Hagedorn said he was in awe of Ms. Raubenheimer's abilities. He said he has a foundation, the Wyakin Warrior Foundation, that brings in severely wounded veterans. The foundation has three veterans now, who are going through Boise State University (BSU) and College of Western Idaho (CWI), who are blind and that it would help them a great deal to be able to connect up with her. **Senator Hagedorn** asked Ms. Raubenheimer to speak on a National Defense Science and Engineering award that she received. **Ms. Raubenheimer** said it is an award for an early-career scientist and that she received it for doing work relevant to the Navy. **Ms. Raubenheimer** said the committee members could pass her email address on to anybody they felt might benefit from communicating with her. She said, although her monthly, phone-in support group started out in northern Idaho, it has expanded and that there are members from Boise who call in. **Senator Hagedorn** said he would make sure to pass along her information. **Vice Chairman Nuxoll** asked if Ms. Raubenheimer has ever talked in schools because students need to hear her stories of hope and optimism and that, despite obstacles the students may have to endure, they can get through it. **Ms. Raubenheimer** said she has talked at schools in northern Idaho when invited and that she would be happy to talk at schools more often. **Ms. Raubenheimer** said she has also talked with groups of students, organized by the National Federation of the Blind, to make sure other blind and visually impaired students knew about things that could be doing – looking forward to the future. **Vice Chairman Nuxoll** said she would pass Ms. Raubenheimer's email address out to a few schools.

Vice Chairman Nuxoll thanked Ms. Raubenheimer, said the committee is very glad that she has agreed to this appointment and that the committee will be voting on her Gubernatorial Appointment at the following Senate Health and Welfare meeting.

**PASSED THE
GAVEL:**

Vice Chairman Nuxoll passed the gavel to Chairman Heider.

Chairman Heider thanked Vice Chairman Nuxoll, commended Ms. Raubenheimer and introduced Mark Johnston, Executive Director of the Idaho State Board of Pharmacy (BOP), to talk about **H 16**.

H 16

Mr. Johnston introduced himself and said he would be requesting the committee send **H 16** to the floor with a do-pass recommendation. The purpose of this bill is to clarify that pharmacists and practitioners can share Prescription Monitoring Program (PMP) data with each other. (See Attachment 1.)

Senator Bock asked if **H 16** is a new bill, a piggyback on one that was recently done or if this bill ventures into a new subject area. **Mr. Johnston** said Idaho was one of the first states to have a prescription monitoring program and seen somewhat of an industry leader for prescription monitoring programs. Now, 49 states have legislation and almost all of those have their programs up and running. Idaho is continually trying to advance to the next level and a lot of that is funded through federal grants. **Mr. Johnston** said he was before the committee about two years ago, asking for a number of changes that would allow interstate data sharing so that prescribers could look at reports. More recently, the BOP was before the committee requesting the ability to provide unsolicited reports and had also received appropriation from the Joint Finance-Appropriations Committee (JFAC) as part of that bill – the BOP sends out monthly notifications right now and will surely become more adept at it. This would allow the actual practitioners to jump BOP's reports and to talk amongst themselves and really isn't just to catch doctor shoppers. There are two parts to the PMP: one is to identify illegal activity and the other is to help each other prescribe correctly. **Senator Bock** asked, if he was a pharmacist and had received a prescription, what happens, what would he see and how would he know that he's into a problem area? **Mr. Johnston** said, as of now, it would depend on his employer. If he was employed in a larger chain that shares a common electronic file for all its patients, such as Walgreens, he would be able to see every prescription that was filled within the Walgreens system for that patient, even if they went to Florida on vacation. A smaller, independent pharmacist might only be able to see his own records for that patient. Where you're tipped off to want to go to the PMP to look further, kind of varies in your practice setting. **Mr. Johnston** said it's more useful on the front end and it might be more effective on the tail. Pharmacists might help identify folks that are engaged in illegal activity, but practitioners can access the report before they even prescribe and perhaps not creating the doctor shopper in the first place. Different states have addressed that in different ways.

Senator Hagedorn asked how he would associate a link with the person standing before him with a prescription if there was not a name on it, and how would he know the link is important or is associated with a doctor shopper. **Mr. Johnston** said the program that the BOP would like to mimic already exists in Indiana with its Board of Pharmacy and has been a proven program, not just conceptual. So, since it exists, the BOP has a pretty good understanding how it works: when a patient visits your pharmacy, a message will come up to the effect that a doctor would like to share a profile of a patient that has visited your pharmacy and to please click on a link. When you click on that link, you will go to a sign-in page that will then take you to that profile. There's a fine line between protected healthcare and what you can divulge with potential illegal activity, due to the Health Insurance Portability and Accountability Act (HIPAA). **Senator Hagedorn** said he understands this might be a great thing for pharmacists, but had there been any discussions in a public forum to determine whether or not Idahoans have concerns about keeping their information private? **Mr. Johnston** said it has been vetted out by the Attorney General's Office who studied it versus HIPAA, the national privacy act, and there aren't any concerns from a legal perspective. **Vice Chairman Nuxoll** asked if there is any way this bill would be hard for small pharmacies. **Mr. Johnston** said he

can't think of a way that it would be hard since there is no real mandate – the bill says that pharmacies and practitioners have the ability to share information, but it doesn't mandate. Of course, to be able to use the PMP program, you'd have to have internet access. But, due to the Pseudoephedrine Sales and Tracking Bill (Senate Bill 1309) that passed last year, the BOP was successful in verifying that every pharmacy in Idaho had internet access.

Senator Schmidt asked for clarification of Subsection four, which the BOP is adding, and Subsection five since they both seem to address the same issue of sharing. **Mr. Johnston** said that Subsection five was introduced last year and its intent was to address the sharing or reckless, willful and wanton conduct towards the password and log-in information. It wasn't written with the idea that it would address practitioner-sharing information with each other, it was more like protection. It does look like five provides protection for folks who engage in four. **Chairman Heider** asked, either way, if one subsection contradicts the other. **Mr. Johnston** said he didn't believe so and, in the BOP's statement of purpose it was said that this bill clarifies – so it may already exist. **Vice Chairman Nuxoll** asked Mr. Johnston to go over what is on the link sent to the pharmacist. **Mr. Johnston** said the link will be a statement that says something to the effect of, 'a provider would like to share information on a patient of yours with you.' Once you click on the link, the link takes you to a sign-in page where you sign in and are immediately taken to that patient's profile. The patient's profile is collated data of all the controlled substances that the patient's had filled from the last two years, lists the prescriber, the pharmacy, the drug and some other information. This monitoring is so, ideally, people can make better clinical decisions knowing what other drugs have been prescribed. But, it's also used occasionally to address illegal activity. **Senator Bock** asked from whence the bill emanates. **Mr. Johnston** said the BOP received an approximate \$200,000 federal grant to enhance the PMP and set about trying to decide which projects to include in that. Through national conferences, the BOP found what Indiana had done, liked the idea and set the wheels in motion. However, the Attorney General's Office stopped them and said they had better get clarity and a statute to be able to invest in the software program previously mentioned. So, if **H 16** doesn't go forward, the BOP, under legal counsel, would not invest the money in that software program.

TESTIMONY:

Pam Eaton said she is with the Idaho Retailer's Association, the Idaho Retail Pharmacy Council and the Idaho State Pharmacy Association. **Ms. Eaton** said she initially was not going to testify, but since there were so many questions she just wanted to say that her organizations are supportive of **H 16** and think it will be helpful.

DISCUSSION:

Senator Martin asked if part of the profile seen in the PMP is the patient's name. Also, how does a pharmacist know that the patient they're getting ready to fill a prescription for potentially has a problem? **Mr. Johnston** said the link that is sent to the provider does not have any private healthcare information. But, once you log in, you see the patient's name. In fact, one of the programs the BOP spent some of its federal grant on is a linking program that will, hopefully, be up in the next week or so. For example, now you will not only see William Johnson, but you will also see Billy Johnson, Bill Johnson, etc. If the names have the same birthday and enough key characters match up, with some addresses mixed in there, too, a pharmacist might actually see a couple different profiles. **Senator Hagedorn** asked Mr. Johnston to speak on the privacy of the database. **Mr. Johnston** said the database has existed since, he believes, 1999. Until 2007 it was accessible by authorization through a faxing system. In 2007 the BOP promulgated rules that made 24/7 online access available just to pharmacists and prescribers. The online access is not available to law enforcement and certain other folks because the BOP didn't want a fishing expedition. If law enforcement requests something from BOP, BOP requires an actual case number to show that there is actually an investigation going on.

MOTION:

Senator Schmidt moved to send **H 16** to the floor of the Senate with a do pass recommendation. **Senator Bock** seconded the motion. **Senator Schmidt** said he has significant experience with this issue, and with the PMP, and it's something that needs continual attention. Prescription drug abuse is rampant and it is an epidemic in Idaho and in the country. **Senator Schmidt** said he thinks Mr. Johnston and the BOP have paid attention to it appropriately and are moving forward. **Senator Schmidt** said once he got the explanation that this is what the Attorney General's Office needs to move forward, it makes great sense to him. **Senator Schmidt** said he thinks that the committee does need to be vigilant, needs to ask questions and that this would be quite helpful for Idaho. The motion passed by **voice vote**. **Chairman Heider** asked if any of the senators wished to carry **H 16** to the Senate floor. **Senator Schmidt** volunteered.

Chairman Heider asked if Brent Reinke, Director of the Idaho Department of Corrections, was there to give a presentation on the Idaho Criminal Justice Commission (ICJC). **Sharon Harrigfeld**, Director of the Idaho Department of Juvenile Corrections, said that she and Sara B. Thomas, State Appellate Public Defender, would be doing the presentation instead.

PRESENTATION: **Ms. Harrigfeld** and **Ms. Thomas** gave an overview of the ICJC, complete with a slideshow, on what the ICJC has been working on, its subcommittees, some things those subcommittees have been working on and some legislation that will be coming before the Senate Health and Welfare Committee this year as well as some things the ICJC is working toward for next year. (See Attachments 2a, 2b and 2c.)

DISCUSSION: **Chairman Heider** thanked Ms. Harrigfeld and Ms. Thomas and said their presentation was very interesting. Chairman Heider said he is sure the committee members stood in awe during parts of the presentation, in hearing what is happening in Idaho.

Senator Lodge asked about the human trafficking statutes that the ICJC wants in place that include having convicted criminals forfeit goods and monies received during the course of the crimes committed. She asked if the ICJC has decided where it wants those goods/monies to go. **Ms. Thomas** said although it is not part of the statute to direct where the goods/monies go, the forfeiture statute was specifically modeled on the statute for drug forfeitures. So, the intent is that the goods/monies would go to law enforcement. **Senator Lakey** asked about the repayment, if convicted, of the uniform appointment of counsel in the adult system. **Ms. Thomas** said the wording is 'may,' not 'shall,' so it would be up to the judge if they have to repay – unless it would be a true financial hardship, also determined by the judge – and how much would be repaid. It is discretionary. **Senator Lakey** asked if there are parameters on the timeframe of repayment or is that also part of the discretion of the judge. **Ms. Thomas** said, yes, that is all part of the discretion of the judge. The way the law currently reads is that it's due and owing as soon as they're convicted. The reality is that many of those people are in prison, so it could be a long time before there is any recoupment. **Senator Lakey** asked if there was a repayment provision – by the parents, obviously – on the juvenile side. **Ms. Thomas** said there currently is a provision in Idaho law that requires parents to repay. Again, it is discretionary with the judge. But, the parents do have to pay that back and this does not change any of that. The only thing that this would really change is it would ensure that the parents can't put pressure – because this attorney represents the children, not the parents – on the child to waive counsel. **Chairman Heider** asked when the committee can expect to see the cost-benefit analysis the ICJC wants to do and what is the price of the contractor who will be hired to do that analysis. **Ms. Harrigfeld** said five or six of agencies involved in the ICJC put forth some money that came up to \$55,000. That money is being housed and held for ICJC at the Association of Counties, so the money will run through

them to pay for the contracted economist. At this point, the ICJC wants some results to determine whether or not to move forward with it and to determine if it should ask for an appropriation for the economist next year. The Senate Health and Welfare Committee will have it for the next legislative session.

Senator Schmidt said he had more questions about the uniform appointment of counsel but, since a bill is forthcoming, he asked if he should he wait to ask then. **Ms. Thomas** welcomed more questions and said she believes the bill is going to be introduced in the House next week. **Senator Schmidt** said, in regard to the description of the proposed uniform standards, those standards are currently in place for indigency for medical care in counties and it is applied differently in every county even though it's in statute. **Ms. Thomas** said the way that it's envisioned in the statute is that the court is going to be adopting a uniformed form – right now, Idaho doesn't even have that. So the court would be creating, through court rule, a uniform form. The statute actually provides some provisions in there to make sure people can be honest and still have their Fifth Amendment rights against incrimination protected – that forum won't be used to convict them of the crime that they are on trial for. That information is then given to the judge and the judge would actually make the decision. It is never going to be entirely uniform because the fact is that even though we have these presumptions, the judge is able to overrule them – so, it is never going to be ideally, entirely uniform but it will be the judges who will be making those decisions. **Senator Schmidt** asked for the ICJC's definition of public assistance. **Ms. Thomas** said it would be public assistance in the form of food stamps, health coverage, cash assistance or child care assistance. That's the exact language of the statute.

Senator Bock said he would like to make a comment since he serves with Ms. Thomas and others on the commission: The state really has to do something about the public defense system. The state is going to get sued because what is done now is really a violation of constitutional rights of the accused. **Senator Bock** said he is, by no means, arguing against the proposals, but unfortunately there are price tags attached. **Senator Bock** said he thinks that is what the legislature is going to have to struggle with is whether it is going to accept the price tag now or maybe even pay a bigger price tag when a federal judge actually decides what the system's going to look like as well as the scope of it.

Chairman Heider said the committee expects to hear great things from the ICJC's further analysis.

ADJOURNED: There being no further business to come before the committee, **Chairman Heider** adjourned the meeting at 4:24 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #2
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, February 06, 2013

SUBJECT	DESCRIPTION	PRESENTER
Hearing	Committee consideration of the Gubernatorial appointment of Britt Raubenheimer to the Commission for the Blind & Visually Impaired	
H 37	Relating to the Wood and Mill Yard Debris Committee	Orville Green, Administrator at DEQ
Presentation	Relating to the IDOC Update	Director Reinke Idaho Department of Correction
RS21880	Relating to the Natural Death Act	Ken McClure

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 06, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:03 p.m.

GUBERNATORIAL APPOINTMENT: **Chairman Heider** asked if there were any comments in regard to the gubernatorial appointment of Britt Raubenheimer to the Commission for the Blind and Visually Impaired.

Senator Hagedorn said his only comment would be that the Senate Health and Welfare Committee is very fortunate to have someone of Ms. Raubenheimer's capabilities on the Commission for the Blind and Visually Impaired.

MOTION: **Senator Hagedorn** moved to send the gubernatorial appointment of Britt Raubenheimer to the Commission for the Blind and Visually Impaired to the floor with recommendation that she be confirmed by the Senate. **Senator Martin** said he strongly seconded the motion.

DISCUSSION: **Chairman Heider** said he thought the Senate Health and Welfare Committee would all concur that Ms. Raubenheimer is a wonderful candidate, very well qualified and very talented in so many ways.

The motion carried by **voice vote**.

Chairman Heider said Senator Keough requested to carry the gubernatorial appointment to the Senate floor since Ms. Raubenheimer lives in her district and asked the Senate Health and Welfare Committee if that was acceptable. The committee agreed. **Chairman Heider** said he would notify Senator Keough.

H 37 **Chairman Heider** said Orville Green, Administrator for the Waste Management and Remediation Division at the Department of Environmental Quality (DEQ), would be presenting **H 37** to the committee.

Mr. Green said **H 37** proposes changes to provisions relating to the Wood and Mill Yard Debris Committee. The changes are to provide that the committee meet on an as-needed basis.

Senator Lakey said he was concerned with the wording of the bill in that a meeting has to be convened if the director, a committee member or a member of the public requests one. **Senator Lakey** said he was concerned that could raise some issues if a member of the public wanted to be problematic. **Mr. Green** said he believes the wording included "may schedule a meeting at the discretion of the director" and that the director would have the discretion to not convene the meeting. **Senator Lakey** expressed concern about the wording, "upon receiving the request the department shall contact all members and arrange a time and place most convenient to the majority of the members." **Mr. Green** said in the past ten years it has not been an issue, but if it becomes problematic he will be back before the Senate Health and Welfare Committee. **Senator Hagedorn** asked if there was discussion about terminating this committee since there has not been much of a need for it since 2004. **Mr. Green** said that was considered, but the statute provides authority for DEQ to specifically exempt facilities that manage wood and mill yard debris in accordance with the Technical Guidance Manual from the solid waste rules.

MOTION: **Vice Chairman Nuxoll** moved that **H 37** be sent to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

DISCUSSION: **Senator Hagedorn** said he thought Senator Lakey brought up a very valid point in that the department would be opening themselves up to unnecessary meetings and said he wondered if anyone wants to consider correcting that language.

Senator Schmidt said with the committee now meeting on an as-needed, he would like them to continue to be responsive. **Senator Schmidt** mentioned the wording, "shall make arrangements for a convenient time to meet" which could include "a telephonic meeting" and said he was supportive of the language.

Chairman Heider asked if it that was satisfactory to Senator Hagedorn.

SUBSTITUTE MOTION: **Senator Hagedorn** said he appreciated the comments but that he wanted to make a substitute motion. **Senator Hagedorn** moved that **H 37** be referred to the 14th Order for amendment.

Chairman Heider said the substitute motion died for lack of a second.

Chairman Heider asked for a vote on the original motion. The motion carried by **voice vote**.

PRESENTATION: **Chairman Heider** introduced Brent Reinke, Director of the Idaho Department of Corrections (IDOC), to give the Senate Health and Welfare Committee an update on IDOC.

Mr. Reinke said he would not be doing a power point presentation because all the information from the power point was in the IDOC handouts the committee members were given. **Mr. Reinke** referred the committee members to each of the handouts as he spoke about IDOC. (See Attachments 1a, 1b and 1c.)

DISCUSSION:

Senator Schmidt asked about the parole wait time, which was dropped from eleven months to four months. **Mr. Reinke** said that concerned individuals, who potentially would be on parole, but were sent back to prison because they had violated their parole terms due to a technical violation or some other reason. Those individuals could only be released by the Idaho Parole Commission. This drop time has produced some good outcomes and addressed issues with having open prison beds for other more serious inmates. **Vice Chairman Nuxoll** asked if the Rider Program is only available to defendants in the beginning stages of the trial process. **Mr. Reinke** said not necessarily and that IDOC have had parolees who have been paroled on the Riders Program. **Senator Hagedorn** said he had heard IDOC was reconsidering its goal of building a mental health facility and asked what the latest information was on that. **Mr. Reinke** said that is still a goal but it has been difficult with the projected operating expenses for a 570 bed facility coming in at \$25 million a year. **Mr. Reinke** said mental health is something that cannot be ignored because there is a lot of risk involved for the state and a smaller facility could be the next goal. **Chairman Heider** asked if Idaho had prisoners in Colorado prisons. **Mr. Reinke** said there are currently 247 Idaho inmates in Colorado prisons.

RS 21880

Chairman Heider introduced Ken McClure – attorney and lobbyist for the Idaho Medical Association – to present **RS 21880**, a piece of legislation that relates to the Natural Death Act.

Mr. McClure said **RS 21880** was being brought before the committee to correct an alleged oversight in his work from last year that would clear up ambiguous language pertaining to Do Not Resuscitate (DNR) instructions for doctors and hospitals.

Senator Lodge asked if **RS 21880** was last year's S 1294. **Mr. McClure** said that was correct.

Vice Chairman Nuxoll moved to print **RS 21880**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business before the committee, **Chairman Heider** adjourned the meeting at 3:49 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #5
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, February 07, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>RS21948</u>	Relating to Immunization Registry	Christine Hahn, Public Health Director Department of Health and Welfare
<u>RS21772</u>	Relating to the Organ Donor Notification	Senator Lee Heider
<u>RS21781</u>	Relating to Organ Donation Contribution Fund	Senator Lee Heider
<u>S 1013</u>	Relating to Telecommunications Service Assistance	Genie Sue Weppner, Program Manager at Idaho Department of Health and Welfare
Presentation	Relating to the Idaho Council on Industry and Environment (ICIE) - difference between rules and guidance and issue of stringency	Roy Eiguren Jack Lyman Joan Cloonan
Presentation	Relating to the Collaborative Work Group on Adult DD Services	Marilyn Sword Executive Director, Katherine Hansen, Director of Community Partnerships
Presentation	Relating to US Ecology	Jeff Feeler, President and COO of US Ecology, Inc. Simon Bell, Vice President of Operations Terry Geis, General Manager

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 07, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:05 p.m. and welcomed Dr. Christine Hahn, Public Health Director, Department of Health and Welfare (Department).

RS 21948 **Dr. Christine Hahn** reviewed **RS 21948**, which eliminates the need for **S 1011** (not passed), incorporates the information in **S 1012** (not passed) and adds the stipulation that all information relating to an individual may be removed from the registry. There is no impact to the General Fund.

Chairman Heider pointed out that the new wording was changed significantly from the earlier bills, which elicited adverse reaction. **Vice Chairman Nuxoll** asked for clarification about the opt-in, opt-out registry. The information will be placed in the registry unless the parents or guardian requests otherwise. **Senator Lodge** asked how the law would affect families who move out of state or change doctors, as well as the possibility of a name being placed in the registry when it was not supposed to be there. **Dr. Hahn** said it will be up to the family to make sure the information is transferred. Regarding the question of placing a name in the registry in error, **Dr. Hahn** said the system would not allow registry of a name that was previously not allowed; she said it would be the responsibility of the family to make sure their child is not in the registry. Other questions included protection against vaccinations where there are severe reactions; what is done when an individual dies; reporting accuracy; and how to avoid misuse in cases of a contentious custody. **Dr. Hahn** said information about vaccinations are managed differently from the opt-out program; severe reactions are noted in the registry; the Department does not and cannot track all deaths; parents are encouraged to work with providers on sharing health information; and misuse could occur in a custody case. She said the Department provides an informational brochure to help parents and guardians navigate the system, and parents are encouraged to work with health care providers to ensure records are correct.

MOTION: **Senator Lodge** moved to send **RS 21948** to print. The motion was seconded by **Senator Bock**. The motion carried by **voice vote**.

PASSED THE GAVEL: **Chairman Heider** turned the meeting over to Vice Chairman Nuxoll while he presented **RS 21772** and **RS 21781**.

RS 21772 **Chairman Heider** explained that **RS 21772** would allow law enforcement officers, emergency personnel and firefighters to notify organ procurement organizations of deceased individuals at the scene of an accident rather than after transport. He said that time is of the essence in organ transplant situations and this legislation would authorize those at the scene of an accident to begin the organ recovery process immediately. He said other states have enacted similar statutes, which are working well. There is no fiscal impact to the General Fund.

Questions were asked about the problem of relatives hearing news of a death inappropriately and of the possibility of sending the information to an organ harvesting organization when the individual is not actually deceased. **Chairman Heider** emphasized this legislation is a notification process only; no organs would be harvested prior to confirmation of death.

MOTION: **Senator Hagedorn** moved to send **RS 21772** to print. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

RS 21781 **Chairman Heider** presented **RS 21781**, which allows the Motor Vehicle Department to collect a \$2 organ donation contribution by amending Chapter 10, Title 56, Idaho, by adding a new section, § 56-1055, to Chapter 10, Title 56, Idaho Code, to create an organ donation contribution fund, to provide for duties of the Department of Health and Welfare in administration of the fund, and to identify possible recipients of monies from the fund. There is no fiscal impact to the General Fund. **Chairman Heider** said the computing system was not set up to accept donations previously, but is now updated. He said donations are strictly voluntary and not mandated.

Questions were asked about the tracking and reporting process. **Chairman Heider** said until the process is put in place it will not be known exactly how the program will work. He said a Donor Services representative would be attending a committee meeting February 14, at which time more information may be available.

MOTION: **Senator Hagedorn** made a motion to send **RS 21781** to print. The motion was seconded by **Senator Lakey**. The motion carried by **voice vote**.

PASSED THE GAVEL: **Vice Chairman Nuxoll** turned the meeting back to Chairman Heider.

S 1013 **Chairman Heider** recognized Genie Sue Weppner, Program Manager, Idaho Department of Health and Welfare. **Ms. Weppner** presented an overview of **S 1013**, which amends § 56-901, Idaho Code, to remove reference to "Link-Up" contributions, and § 56-902, Idaho Code, to remove reference to "Link-Up" contributions. The Federal Communications Commission (FCC) has increased the eligibility limits from 133 percent Federal Poverty Level (FPL) to 135 percent and discontinued the "Link-Up" program, thereby requiring changes in the above sections of the Idaho Code. The revised regulations went into effect June 1, 2012. There is no fiscal impact to either state or federal funds. The funds that provide the discount to the low-income customer are collected by the phone companies as a surcharge. **Ms. Weppner** said the Security and Exchange Commission (SEC) made changes to combat the problems arising from increased cell phone usage, and these changes are necessary to align the state of Idaho with federal regulations.

MOTION: **Senator Bock** moved that **S 1013** be sent to the floor with a **do pass** recommendation. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Chairman Heider** welcomed **Mr. Jeff Feeler**, President and Chief Operating Officer of U. S. Ecology, Inc., who presented an overview of his company (Attachment No. 1) U. S. Ecology, Inc. operates hazardous and radioactive waste treatment and disposal facilities. The publicly traded company is headquartered in Boise but operates across the country with approximately 450 employees (100 in Idaho). **Mr. Feeler** described the transportation, treatment and disposal process, primary markets, location of the facilities and nature of the waste handled. He said the company is financially strong and stable. Revenues in 2012 were \$160 million.

Mr. Feeler introduced Mr. Terry Geis, Idaho Plant Manager, who described the Grand View operation. **Mr. Geis** said historically, the Grand View plant pays over \$2 million per year in tipping fees to the state and contributes approximately \$22 million annually to the Idaho economy in payroll, taxes, capital spending and supplies. **Mr. Geis** described the process of bringing in waste into the facility and reviewed treatment, disposal and the monitoring process. He said a ten cubic yard landfill is being built, costing about \$7.5 million. He said the company is the largest employer in the Grand View area with above-average wages and tipping fees of \$2 million.

Questions were asked about the integrity of land fill liners, moisture problems and types of radioactive waste and tipping fees. **Mr. Geis** explained how the liners were constructed; he said they are virtually impenetrable by rodents. He said daily monitoring ensures that no waste seeps into the aquifer. **Mr. Feeler** summarized the presentation and answered additional questions, including the definition of tipping fees. The waste collected is of two types: hazardous and low-level radioactive. Tipping fees are fees in the sum of tax charged when the company brings in waste, which can range from \$2.50 per ton to \$30 per ton, depending on the type of waste. These fees are contributed to the General Fund. Regarding a question about the tracking process, he said every drum is tracked with detailed information sent to the state, which will remain in perpetuity.

Chairman Heider thanked Mr. Feeler and Mr. Geis for their presentation and recognized Mr. Norm Semanko of the Idaho Council on Industry and Environment (ICIE).

PRESENTATION: **Mr. Norm Semanko**, Chairman of Environment and Regulatory Affairs Committee, presented an overview of ICIE and introduced **Mr. Jack Lyman**, Executive Vice President of the Idaho Mining Association, who reviewed the Idaho Administrative Procedures Act (APA). The APA authorizes state agencies to develop rules that have the force and effect of law. He described the rulemaking process, which includes substantial public input through written comments, meetings and hearings. **Mr. Lyman** said a rule prescribes legal standards or directives but does not enable statutes. He described the APA as an agency that provides authority to the legislature to amend, modify or reject rules. Idaho is one of only three states in the nation with this authority. **Mr. Lyman** described the definition of 'stringency,' which imposes rigorous standards of performance. He also reviewed the statutes relative to the Idaho Hazardous Waste Management Act, Toxic Substance Control Act, and others. (Attachment No. 2).

Questions were posed regarding the function of the Idaho Department of Environmental Quality (IDEQ) as pertains to writing rules. It was explained that IDEQ enables more flexibility and the rules are embodied in the statutes written by legislation. **Chairman Heider** thanked Mr. Lyman for the information and recognized Ms. Joan Cloonan, a long-time member of the IDEQ. **Ms. Cloonan** reviewed the process of guidance and rulemaking at IDEQ. She said the board promulgates the rules, which are then legislatively approved, as either permanent or temporary, and carry the full force and effect of law. She explained that "guidance" is simply written documentation of how an agency interprets a rule and is often used by staff.

Mr. Semanko summarized the presentation and answered questions about permits (specifically those required for an injection well). **Chairman Heider** thanked the presenters and called on Ms. Marilyn Sword, Executive Director of Community Partnerships.

PRESENTATION: **Ms. Marilyn Sword** reported on the Collaborative Work Group on Services to Adults with Developmental Disabilities (Group) (Attachment No. 3). The Group was formed in January 2012, and has met regularly to address concerns and formulate research avenues on the service delivery system for adults with development disabilities in Idaho. Specific states were chosen as models to emulate. For example, the state of Florida provides excellent managed care. Boston is a current focus of research and will lead to the first round of data, which will be available at the end of February. A focus group will meet next spring to assess the programs that work and those that need revision. The Health and Welfare Department has developed two managed care proposals and is preparing others. The Group will work to enhance and improve on its findings and will bring results to the committee next year.

Chairman Heider read the Group's lofty vision, which is:

"By 2016, adults with developmental disabilities living in Idaho enjoy the same opportunities, freedoms and rights as their neighbors. They have access to a sustainable service system that provides quality, individualized supports to meet their lifelong and changing needs, interests and choices."

Ms. Katherine Hansen, Director of Community Partnerships, extended an invitation to committee members to attend the Governor's second annual "Disabled Day" on February 8, where disabled individuals and related agencies throughout the state will be assembled. **Chairman Heider** thanked Ms. Sword and Ms. Hansen for their report.

ADJOURNED: There being no further business to come before the committee, **Chairman Heider** adjourned the meeting at 4:50 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

JOINT
**SENATE HEALTH & WELFARE COMMITTEE
AND
HOUSE HEALTH & WELFARE COMMITTEE**
8:00 A.M. - 10:00 A.M.
WW02 - AUDITORIUM
Friday, February 08, 2013

SUBJECT	DESCRIPTION	PRESENTER
	PUBLIC TESTIMONY FOR HEALTH AND WELFARE	
	3 MINUTE TIME LIMIT PER TESTIMONY	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
JOINT MEETING
SENATE HEALTH & WELFARE COMMITTEE
HOUSE HEALTH & WELFARE COMMITTEE

DATE: Friday, February 08, 2013

TIME: 8:00 A.M.

PLACE: WW02 Auditorium

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

Chairman Wood, Vice Chairman Perry, Representatives Hancey, Henderson, Hixon, Malek, Morse, Romrell, Vander Woude, Rusche and Chew

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 8:01 a.m., welcomed all those in attendance and proceeded to clarify legislative procedures and instructed on the rules of the joint hearing. He presented **Vice Chairman Perry**, who also welcomed guests.

SPEAKERS: **Jenny Hayes-Millar**, Idaho resident, testified on the challenges of mental health (MH) issues being addressed with limited resources. State hospitals have depressing atmospheres that add to stress levels. If nothing else could be improved, having counseling would be uplifting for mental health patients.

Boise Police Chief Mike Masterson gave an overview of the MH and suicide crisis in the Boise area. He indicated that Boise police respond to an average of 20 cases per day of citizens in crisis. He furthered that the Boise police rescue an average of 1.4 persons daily who are hospitalized under Chapter 66. He advocated proactive, preventative mental health treatment and services for citizens.

Kathie Garrett, regional director for the National Alliance on Mental Illness, urged the restoration of dental care to Medicaid for disabled people. **Paula Barthelniss**, Licensed Clinical Social Worker, represented all Idahoans suffering from MH issues, and shared support for expanding the Medicaid adult coverage and restoring the preventive dental health coverage. There is a resurgence of major dental issues and hospitalizations, as MH patients take medications that tend to rot teeth and sometimes lead to life-threatening dental circumstances. **Ingrid Burdenell**, Emeritus Professor of Nursing, as well as Idaho residents **Joe Raiden** and **Sue Philley**, shared similar concerns. A suggestion was proposed to fund free mobile medical vans that could travel to rural communities, and that the vans be equipped with basic public health medical staff and equipment.

Scott Burpee, CEO and co-owner of Safe Haven Health Care, stated that he wanted to offer pro-active suggestions. He indicated that another level in assisted living was needed so that patients cannot transition out so easily. He advised the committee that the highest concentration of MH providers in the state are located in eastern Idaho, and that all of the MH hospitals are full at any given time. He stated policies should be in place to address suicidal or violent citizens, because these people have no where to go.

Skip Smyser, Attorney, Lobbyist, represented the Idaho Health Care Association. He informed the committee that the budget cuts are impacting low-cost nursing home alternatives. He advised the committee that providers need to be able to make a living and provide essential services to the citizens of Idaho.

Marty Durand, legislative counsel for Care Providers Network of Idaho, informed the committee that Certified Family Homes (CFH) must have the Department of Health and Welfare (DHW) and legislative assistance to avoid people being returned to institutions. Rural areas do not have CFH. Insufficient reimbursement rates and cost increases may be the cause of the CFH providers being unable to continue quality services.

Joan Schramm, Director of Mental Health Services, testified about the MH needs and concerns of Idaho. Qualification requirements for MH services are problematic. She urged reassessment and improvement of services. **Brandon Wilcox**, Idaho resident; **Bill Fairbanks**, RH Mental Health Services; and **Dave Sorensen**, Family Center Owner, stressed a re-evaluation of Psychosocial Rehabilitation (PSR) services. Cuts to the budget have resulted in a crisis-management cycle that impacts not only the police, but hospitals and homeless shelters as well. A success story was conveyed about a client with a background of living in homeless shelters, incarceration and drug addiction whose life was changed by community based treatment services. He now has his own apartment and is employed full-time. Chronic mental health illnesses are challenging and mandate additional support for living independently; the decrease in counseling services by PSR have created financial difficulties. While the costs for PSR have increased, so has the qualification criteria.

Brandon Smalley, Community Outreach Counseling, urged more support and safety measures for dual-diagnosed patients who are adding burden on police departments when they have no residency options and go back to the streets.

Christine Pisani, Council on Developmental Disabilities, represented John Kahara in his written request for the restoration of dental health care. Mr. Kahara stressed that recent cuts to Medicaid services have limited his access to psychosocial rehabilitation services, and that his only crisis resource is the hospital behavioral health unit.

Jill Payne, Idaho resident, addressed the increase in hospitalization and incarceration of persons with mental illness. **Debby Valadez**, Community Outreach Counseling; **Gregory Dickerson**, Administrative Health Supports of Idaho; **Charlene Quade**, attorney; and Idaho residents **Vanessa Johnson** and **Courtney Bosenkoelber** conveyed additional MH issues, indicating how cuts to MH affects not only treatment to individuals, but affects the community as a whole. The restoration of cuts and services to the disabled was requested, as well as qualification expansion for MH services. The working poor need an eligibility expansion in order to access services. Suitable evaluations for eligibility of Social Security and health care benefits are needed.

Idaho residents **Cami Smith** and **Phyllis Reff**; and **Laura Scuri**, Access Behavioral, testified before the committee about children's health care issues. Children with special needs are increasingly at risk for other conditions. A portion of the children's MH service options (i.e. PSR) are intended for adults and do not address children's needs. Developing effective care systems for children with severe behavioral disabilities is critical.

It was stated that Idaho is not up to speed with the Individuals with Disabilities Act, and there were expressed concerns about the existing system, which mandates a criminal paper trail that results in an increase of mentally ill individuals being incarcerated.

Alan Brewington, Idaho resident, informed the committee about chronic arthritis and how debilitating the disease is. He urged the committee to include arthritis as a disability for parking permits, food stamps and physical therapists.

Dr. Lewis Schlickman, Internal Medicine Physician, Idaho Health Care for All; **Adrienne Evans**, Executive Director, United Action of Idaho; and **Jacob Radil**, Intern, Catholic Charities of Idaho, spoke in support of the Governor's task force proposal for Medicaid expansion. Medicaid expansion will bring dollars back to the state. Improved health has an influence on the workforce. They requested support of the federal Medicaid expansion and Affordable Care Act, which will provide more coverage for more people.

Tom Kolfoed, Idaho resident, informed the committee of his concerns that children are being forcibly removed from their homes for motives other than safety matters.

Marcia Dale and **Paige McMichael**, Idaho residents urged the reinstatement of provider transportation reimbursements. Public transportation cannot adequately handle patients with memory or physical disabilities who are en route to medical appointments. Reliable provider transportation is trusted by those patients to not only provide transportation, but to also assist with medical instructions after their appointment. There is also the burden of the forty-two hour advance ride notice of community transportation.

Ian Bott and **Dawn Phipps**, Idaho residents, asked for changes to the food stamp program, and focused on the necessity of food stamps in order to maintain good health. Also discussed was support for the staggered issuance of food stamps. There is hostility directed toward those who use food stamps by the public in grocery stores as well as some grocery store employees. The six-month application renewal policy has a bearing on the disabled and mentally ill.

Max Hadley, Idaho resident, voiced his thoughts about nationalizing minerals and natural resources to alleviate problems in the United States. He also proposed putting a patent in place that utilizes fingerprints on cell phones instead of passwords.

ADJOURNED: There being no further business to come before the joint committee, the meeting was adjourned at 10:05 a.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #4
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 11, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes of the January 10, 2013 meeting	Senators Martin and Bock
Minutes Approval	Approval of Minutes of the January 29, 2013 meeting	Senators Lakey and Bock
<u>RS21969</u>	Relating to Health Care Sharing Ministries	Lee Barron
<u>RS21999</u>	Relating to the Immunization Registry	Senators Heider and Nuxoll
<u>RS21876</u>	Relating to the Public Health, Safety and Welfare and to Firearm Suppressors	Senator Hagedorn
<u>H 32</u>	Relating to the Board of Psychologist Examiners	Roger Hales
<u>H 33</u>	Relating to the Occupational Therapy Licensing Board	Roger Hales
<u>H 35</u>	Relating to the Board of Social Work Examiners	Roger Hales
<u>H 36</u>	Relating to the Board of Nursing Home Administrators	Roger Hales

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 11, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the Health and Welfare Committee to order at 3:03 p.m., and a silent roll was taken.

MINUTES: **Chairman Heider** asked for the approval of the January 10, 2013 meeting minutes.

MOTION: **Senator Martin** moved to approve the January 10, 2013 minutes as written. The motion was seconded by **Senator Lakey**. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the January 29, 2013 minutes.

MOTION: **Senator Lakey** moved to approve the January 29, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

RS 21969 **Relating to Health Care Sharing Ministries.** **Lee Barron** informed the committee that this legislation will be a new section of the code defining Health Care Sharing Ministries as exempt from being defined by the state as insurance companies. These entities are of a volunteer and ministerial nature and are not insurance companies. A health care sharing ministry (HCSM) is a health-care cost-sharing arrangement among persons of similar and sincerely-held beliefs, administered by a not-for-profit religious organization. Those sharing through HCSMs are called participants. **Mr. Barron** informed the committee that the problem has been that overzealous insurance regulators sometimes attempt to subject HCSMs to equivalent requirements as insurance companies. Fighting the regulators in court is highly expensive and puts burden on the finances of the HCSM participant who is financially stressed, and jeopardizes the functioning of the ministry as well. **Mr. Barron** indicated that this bill is modeled after laws in several other states.

Senator Schmidt inquired that in the Statement of Purpose, there is a description of overzealous insurance regulators, and asked who that might be. **Mr. Barron** replied the people who are administrating the departments of insurance.

Senator Lakey asked how these kind of organizations work: do people kick in and may or may not get payment back; how does it work?

Mr. Barron answered that a charity or that sort of thing know of people who do not have a lot of money, and the preachers or priests and those churches are aware of who those people are. People in those organizations will donate to those in need. He asked Senator Nuxoll to aid him in explaining. **Vice Chairman Nuxoll** then explained to Senator Lakey that there is a type of central place where people can send their money to be used for other people who have need. These people send in monthly donations. A participant fills out paperwork to get on a registry in order to receive the donations. The needed money is assessed to pay for a medical bill, for instance, and the money is doled out to the person or family in need.

Senator Bock indicated that 501(c)(3) organizations confer a personal benefit are really not qualified under 501(c)(3). He stated he was concerned that this system may be subverting in some way the organizational requirements for 501(c)(3) organizations. **Mr. Barron** indicated that the gentleman who was the executive director of this organization wants to come and testify to this committee; the executive director had explained to Mr. Barron that these health care organizations have been in existence since 1999 and there are three that are specifically exempted from the Affordable Care Act. **Senator Bock** asked for some evidence that this kind of set up is legal in case there is a full hearing on this matter and that it is not in violation of federal law or state law.

Chairman Heider asked Mr. Barron who would be coming to testify or sponsor this bill should it be printed? **Mr. Barron** replied that Joel Guarino would be. **Chairman Heider** then asked if this is similar to a health savings account system designed for multiple people rather than one individual family. **Vice Chairman Nuxoll** answered that it probably would be, since people would put their money in to be kept for an occasion when it is needed, and that there are families in the United States that participate in this. **Mr. Barron** then stated that he had spoken to Mr. Guarino about this, and was informed that his family participates by donating a fixed amount every month. People who are donated to are not under any obligation to pay it back.

Senator Lakey asked what expectation there is of the individual; is it their expectation that their medical expenses would be covered, like as with an insurance company? **Senator Lodge** asked why this was brought to Health and Welfare rather than Commerce, who deals with insurance. **Vice Chairman Nuxoll** answered the reason it was brought here is because the Commerce and Human Resources Committee was not meeting. **Senator Lodge** stated that this is an insurance issue and should, if printed, be sent back to back to the Commerce and Human Resources Committee because they work with insurance issues.

Senator Bock mentioned that this has so many ramifications to it that are very complicated, and added that in reference to the health and savings account, these plans have to be compliant with the Employee Retirement Income Security Act (ERISA). He indicated that he would be talking to his colleagues on the Commerce Committee. He stressed that he not will vote for print, since he had serious objections. **Mr. Barron** stated that the criticisms have been well-taken and that Mr. Guarino will be informed. **Vice Chairman Nuxoll** advised the committee that this bill has already been passed in 22 states, and that Washington State has already passed it. There is a section in the Affordable Care Act which exempted these, so it is a valid case that is here before us. She furthered that Mr. Guarino is in Montana, and he is an expert on this.

MOTION:

Senator Martin moved to print **RS 21969**. **Vice Chairman Nuxoll** seconded the motion. **Chairman Heider** called for a roll call vote. **Vice Chairman Nuxoll** and **Senators Hagedorn, Guthrie, Martin, Lakey** and **Schmidt** voted aye. **Chairman Heider** and **Senators Lodge** and **Bock** voted nay. The motion carried.

RS 21999

Relating to the Immunization Registry. **Vice Chairman Nuxoll** informed the committee that since the department came back with a new RS, the citizens are concerned and want an "opt-in" system rather than an "opt-out" system. At some point, there was an opt-in system, but in 2010, there was a word changed that made it an "opt-out" system. The citizens themselves are concerned that they are not given any papers to show that they have opted out. They also are not wanting the word "individual," they want it to be kept as "children." Their concerns are databases. The **Vice Chairman** indicated that she has received over 300 emails from people, including doctors and nurses, who want an "opt-in" system. She stressed that the citizens want this, as opposed to the department.

Chairman Heider added that Dr. Hahn had reprinted a combination of **S 1011** and **S 1012**, and it became **RS 21948**, which was sent to print, and will probably come back to us. It changed "child" to "individual." On the second page, it listed on line 27: "Cause all information relating to the individual to be removed from the registry." In attempt to acquiesce to the public's wishes, the department had us print **RS 21948**. Over the weekend, some people who had testified got together and printed this **RS 21999**, that essentially says that on line 24 of the first page: "The name of a child and information relating to the immunization status of that child shall not be collected and included in a registry unless a parent, guardian or other person legally responsible for the care of the child chooses to have the child included in the registry upon a specified written notice." **Chairman Heider** advised the committee that if we decide to print this bill, it would be in conflict with **RS 21948**, but because this is the last day, he allowed them to print it and for it to be heard at this time.

Senator Hagedorn asked how this will affect those that are currently in the registry, will they then have to be required to opt back in to determine if they are in the registry and then opt-out? **Vice Chairman Nuxoll** stated that she assumed that would be the case, that they would have to ask to be opted-out to get out of the registry. **Senator Schmidt** asked, given what was just described as an obligation to the department to deal with the registry, do you think that is reflected in the fiscal note? **Vice Chairman Nuxoll** responded that it is, although she had not checked with the department.

Chairman Heider stated that he met only with the bill drafter, and did not meet with anyone from the department. **Senator Bock** stated that he is concerned that two conflicting RSs are being sent to print, and he advised that he will be voting against printing this bill. He furthered that these two should be heard at the same time if we have these two conflicting bills. He found it inconceivable that both of the bills could make it onto the floor of the Senate, and the Senate would be faced with the same problem. He stated that the most recent bill could be creating many problems by generating multiple pieces of conflicting legislation, with a possibility that the Senate would have to sort it out on the floor.

MOTION:

Senator Bock moved that **RS 21999** be returned to the sponsor. **Senator Lodge** seconded the motion. The majority voted aye; however, **Senators Lakey, Nuxoll** and **Martin** voted nay, and wished to be recorded. The motion carried.

RS 21876**Relating to the Public Health, Safety and Welfare and to Firearm Suppressors.**

Senator Hagedorn informed the committee that this RS focuses on the hearing protection of Idaho citizens. He stated that we have an inconclusive evidence and data that we will provide, should we print this bill, that clearly shows that Idaho citizens are suffering hearing loss through firearm fire without proper protection. We have evidence that shows that in 2012, the state has actually spent more than \$330,000 in mitigation for hearing loss. There are capable items available to help mitigate that. Idaho is a big gun state, as we all know; there are a lot of hunters that are out all the time, and typically, when you hunt, you don't wear hearing protection because you have to be able to hear your prey.

Senator Hagedorn continued that in many countries in the world, a suppressor is required. Once a person goes through the proper documentation to buy a firearm, that person is also required to purchase a suppressor. He stressed that there is no such thing as a "silencer." He stated that SWAT teams and military personnel are now even training with suppressors, not because they want to be silent, but because they can communicate and they can hear what is going on around them. A typical suppressor reduces the noise of a firearm by about 30 decibels (db). The average noise of a firearm is about 145 db. A suppressor will reduce that down to about the sound of a siren going by. **Senator Hagedorn** informed the committee that the only way currently to get a suppressor in the state of Idaho is to go to Cabella's or to go to a manufacturer and purchase one, and then fill out a \$200 tax stamp form that goes back to Washington, D.C. where nine people are employed to approve this tax stamp. There is no background check; it is basically processing the tax stamp. There is currently about a nine month waiting period in order to get that tax stamp processed and paid, and then the suppressor can be picked up by the purchaser.

Senator Hagedorn furthered that it is currently legal in Idaho to use a suppressor in hunting and is written so in regulations for Fish and Game. He stated that the only place it is illegal to use a suppressor in the state of Idaho, per our regulations, is concealed carry. For the rest of Idaho, it is very acceptable. He stressed that this is not a firearm. Many people are very concerned and **Senator Hagedorn** suggested that a suppressor be thought of like a muffler on a car.

He furthered that this RS basically outlines the process that would be available to Idahoans for suppressors that are manufactured in Idaho, not to be subject to that tax stamp. They can be purchased over the counter and can be immediately used and utilized by firearm owners in different shooting sports and activities to protect their hearing. He stood for questions.

Senator Schmidt indicated that while looking at the fiscal note and Section 7 page 2, "the attorney general shall defend," he wanted to understand the way in which we are going to be in conflict with federal law and the extent to which they are going to be taxing out attorney general's budget.

Senator Hagedorn replied that there is a potential that the federal government, because of their consideration that the Interstate Commerce Clause allows them to tax items manufactured and utilized in Idaho, could sue for an injunction. He stated that we did the Firearms Freedom Act in 2010 and we used this exact same language. To date, there has been minimal – there is an injunction there – but there has been a minimal amount of money spent by the attorney general in working that case. Montana currently has a case before the district courts and we should hear what the results are on March 4th.

Senator Schmidt then commented that the Interstate Commerce Clause that had to do with a gun being manufactured and sold within the state of Idaho, and then there is this plan of the suppressor. To him, **Senator Schmidt** indicated, it made more sense that suppressors could be much more easily made in the state of Idaho than a gun. He thought the likelihood of this being prosecuted is much greater from the federal government.

Senator Hagedorn agreed that it is possible; however, a firearm has many more regulations and is classified as a firearm. He again stressed that a suppressor is not a firearm and is the equivalent of a muffler on a car; the worst thing a person can do to himself with a suppressor is drop it on his toe. He stated this truly is a public safety issue where we have a device that is available to protect the public hearing. Because of this tax stamp issue, we are keeping those that can't afford a \$200 tax stamp from obtaining a suppressor, or wait on hearing protection while the tax stamp to being approved. He continued that if the federal government so chooses to sue for injunction to stop this public safety device from being utilized and purchased in Idaho, that is their choosing. He stated the intention is not to go to court with the federal government, but to provide protection for the citizens.

Senator Guthrie asked that in the second paragraph of the Statement of Purpose (SOP), if he understood correctly, it says the registration, tax or stamp fee would be waived as long as it is manufactured in Idaho and remains in Idaho. He asked if suppressors have serial numbers so that can be tracked – in other words, if one showed up in Nevada, will it be tracked somehow to know that it was made in Idaho and therefore, crossed state lines in illegal entry, and so what is the penalty component for that?

Senator Hagedorn replied that suppressors will be required to have a stamp on them that says "made in Idaho" and if a suppressor does make it to the state of Nevada or anywhere else outside of our borders, that is an Interstate Commerce issue that would be managed by the federal government and not by the state of Idaho.

Senator Lakey stated that he supported the concept, but wanted to know if the attorney general's office thought there was a reasonable chance should the federal government decide to pursue something under the Commerce and the Supremacy Clause?

Senator Hagedorn replied that he did not have an attorney general's opinion on that subject, and therefore, could not answer that question.

Senator Bock stated the tax would actually be an obligation to the Internal Revenue Service (IRS), since that is how these taxes are paid. He suggested that any violation of this will result in someone being required to pay a notice of deficiency from the IRS that taxes are due, and inquired if that had been thought through.

Senator Hagedorn replied that he didn't know where the nine people that approve the tax stamp and do that paperwork sit. He stated he knew that there are over 100,000 pending to be approved currently, and that there is a nine-month wait. The law that puts the suppressors under this \$200 tax stamp was created back in the late 1930's. **Senator Hagedorn** commented that whether it would be an IRS issue or a Department of Homeland Security issue, he was unable to answer that; but he stated that he knew that if we produce a muffler for a car in the state of Idaho and it is utilized in the state of Idaho, the federal government should have no business in getting amongst the transaction of that device. He gave the example that if he had a pistol with a suppressor and then wanted to give that pistol to his son who lives in the state of Idaho, should the government be in the transaction of his providing that hearing protection device to his son? He thinks that is the question that is before us here. Currently, he cannot do that because we have no statute that allows him to provide that hearing protection to his son.

Senator Schmidt stated that he read the part about needing "Idaho" clearly stamped on it, and asked if that prohibited a suppressor maker in Nevada from putting "made in Idaho" on his suppressor.

Senator Hagedorn replied that we would have to watch to make sure that a trademark or stamp did not happen, and that is a good point. He stated that he did not know how we would watch for that.

Senator Bock commented there is a whole line of U.S. constitutional cases dealing with putting things in the stream of commerce and once put in the stream of commerce, they are subject to the commerce clause. He did not think putting these devices into the stream of commerce could be avoided and subjecting those people who might buy and sell them from the prohibition under federal law. He furthered that simply stamping it "made in Idaho" does not solve the problem.

Senator Hagedorn appreciated the concern, but stated that the Commerce Clause and the decisions based around the Commerce Clause clearly indicate that those items that are transferred across borders is where the Commerce Clause comes in, from state to state and across border. He stated that the issue that we have is we are focused on the inside of Idaho. If this device goes outside of Idaho, that is a federal issue, that is not an Idaho issue. If the feds decide they want to chase that and prosecute that, it certainly is their prerogative.

Senator Guthrie inquired if a silencer is specific to a firearm or are they interchangeable, and why is there a nine-month waiting period – is there some sort of background check associated with it?

Senator Hagedorn clarified that there is no such thing as a silencer. These will not silence a gun, but rather reduce the amount of gas noise that comes out of the barrel of the gun by about 30 db. He stated that there still would be a bullet that comes out of the gun that breaks the sound barrier. There is about a nine month wait currently due strictly to processes. There are nine people processing over 100,000 and the wait is due to lack of staffing. As for the suppressor being able to be moved from gun to gun, **Senator Hagedorn** indicated that certainly is a capability of suppressors that are built today. A person could buy a suppressor for a 223, which is a caliber, and that suppressor could be moved from a rifle to a pistol and work just as capably. A suppressor can be used on a multiple caliber of guns as long as the caliber of the suppressor is large enough and matches the caliber of the gun.

Chairman Heider asked Senator Hagedorn to read line 27 on page 1. He said that Senator Hagedorn mentioned that there is no such thing as a firearm silencer, and yet it says "silencer" on line 27.

Senator Hagedorn replied that the reason that term is there is because under federal code, that is the exact set of terms that they have in federal code is fabricating a firearm suppressor, firearm silencer, or firearm muffler, so that we can ensure that we are talking about the exact same thing that they talk about and that they tax at the federal level.

MOTION:

Senator Lakey moved to print **RS 21876**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

Senator Bock stated that he thought a discussion would be appropriate. He furthered that he took an oath in office to uphold the U.S. Constitution. He regarded this RS as being violative of the U.S. Constitution in that it presumes to be able to overwrite federal law. He indicated that he would not be able to vote for it because of that oath of office.

Chairman Heider stated that Senator Bock expressed an opinion, and asked if the motion should move forward by voice vote again. **RS 21876** was carried by **voice vote** with **Senator Bock** voting nay.

Chairman Heider indicated that we were out of time, and that the balance of today's agenda will be heard tomorrow. **Chairman Heider** asked Mr. Hales if **H 34** was still being postponed, and **Mr. Hales** replied that it was.

Senator Bock asked if **RS 21876** is not a bill that would be appropriately sent to Health and Welfare; is there another committee that it should go through? **Chairman Heider** replied that he suspected it would not be coming back; it may be determined by the Judiciary and Rules Committee.

ADJOURNED: **Chairman Heider** adjourned the meeting at 4:42 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #2
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, February 12, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes of the January 16, 2013 meeting	Senators Lodge and Schmidt
Minutes Approval	Approval of Minutes of the January 17, 2013 meeting	Senators Martin and Schmidt
Minutes Approval	Approval of Minutes of the January 22, 2013 meeting	Senators Hagedorn and Bock
Minutes Approval	Approval of Minutes of the January 30, 2013 meeting	Senators Nuxoll and Bock
Minutes Approval	Approval of Minutes of the February 5, 2013	Senators Lakey and Schmidt
Presentation	ACA Impacts on Idaho Medicaid	Dir. Dick Armstrong
H 32	Relating to the Board of Psychologist Examiners	Roger Hales
H 33	Relating to the Occupational Therapy Licensing Board	Roger Hales
H 35	Relating to the Board of Social Work Examiners	Roger Hales
H 36	Relating to the Board of Nursing Home Administrators	Roger Hales
Hearing	Confirmation Hearing of Jay F. Kunze to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 30, 2012 and expiring March 6, 2015.	Jay F. Kunze
Presentation	Relating to Prescription Drug Abuse Issue	Elisha Figueroa, Director, Office of Drug Policy Mark Johnston, Executive Director of the Board of Pharmacy

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 12, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey and Schmidt

ABSENT/ EXCUSED: Senator Bock

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:01 p.m.

MINUTES: **Chairman Heider** asked for the approval of the January 30, 2013 Senate Health and Welfare Committee meeting minutes.

MOTION: **Vice Chairman Nuxoll** moved to approve the January 30, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the February 5, 2013 Senate Health and Welfare Committee meeting minutes.

MOTION: **Senator Schmidt** moved to approve the February 5, 2013 minutes as written. The motion was seconded by **Senator Lakey**. The motion carried by **voice vote**.

Chairman Heider introduced Dick Armstrong, director of the Idaho Department of Health and Welfare, to do a presentation on the Affordable Care Act's (ACA) impact on Idaho Medicaid.

PRESENTATION: **Mr. Armstrong** said, just as a disclaimer, he really does not like anything about this law, but his job is to enforce the law of the land and he was there to do the best for the state of Idaho. In June 2012, the United States Supreme Court decided to make Medicaid expansion under ACA optional to the states. Governor Otter responded by putting together a 15-member workgroup that Armstrong chairs. The workgroup hired two national consultants to collect data. **Mr. Armstrong** said the workgroup's report and recommendations were given to Governor Otter in December 2012. (See Attachments 3a and 3b for presentation.)

DISCUSSION: **Senator Hagedorn** asked where the subsidies come in and from and how the tax credits work – do they only work through the Health Insurance Exchange? **Mr. Armstrong** said they come through the Health Insurance Exchange in the form of a payment to the insurance company. Individuals have to go through a step-by-step process that starts with determining eligibility. **Senator Hagedorn** asked if a static number was used in the final calculations or if an increase over the next ten years was calculated that into the numbers. If so, how would that change the chart? **Mr. Armstrong** said the workgroup and consultants did not try to anticipate the population growth in Idaho. **Senator Guthrie** asked about the 3.5 percent premium tax the federal government charges to run the Exchange. **Mr. Armstrong** said, to his understanding, the 3.5 percent premium tax is a surcharge that the federal

government will add onto the premiums – they're going to charge that, that's a surcharge, they're going to add that on the premiums. **Mr. Armstrong** said rules on this are still being written. **Senator Guthrie** asked if the state does not do the optional part, will there be people now in the mandatory coverage that will then not be covered. **Mr. Armstrong** said, yes, some people will no longer be eligible under the Modified Adjusted Gross Income (MAGI) rules and, then, some who will become eligible.

Senator Lakey asked, with the burden of proof shifted to state, could anybody come in and put in whatever bologna they want on the application and have it then be up to the department to verify the information is incorrect? **Mr. Armstrong** said yes, but the department is given many anti-bologna tools that include searching via Homeland Security to determine citizenship and using the Internal Revenue Service (IRS) to look for sources to verify income. Also, a data hub is going to be made available to bring all the federal sources of information into one search engine so that the department can source-verify statements made on applications. **Senator Lakey** asked if there is a point, if an individual declines to provide additional information and/or documentation, that the burden to verify sources will still be put on the department. And, what protections does the department have? **Lori Wolff**, Division of Welfare Deputy Administrator, said in the verification plans that states put together it will state what will be done in those situations. There will be a sequence of events that states must follow. First, check to see if information can be verified. If there is information that cannot be verified, then state officials can request documentation. If applicants do not provide that, state officials are able to deny a Medicaid application for failure to provide documentation. **Senator Lakey** asked if the mandatory expansion will have a positive impact on the Community Alternatives Program (CAP) fund. **Mr. Armstrong** said while there always is a chance that it would occur, he doesn't think it would be that significant.

Senator Hagedorn asked how many people are going to be left out in the cold – who will not have a choice of the Children's Health Insurance Program (CHIP), Medicaid, Medicare – regardless of what kind of exchange Idaho chooses.

Mr. Armstrong said the estimate is right at 25,000 at this moment in time.

Vice Chairman Nuxoll expressed concern about applicants giving up all their information to determine eligibility on the Exchange, through the MAGI rules, and she asked at what wage a family of four would be the cut off. **Mr. Armstrong** said 400 percent of the federal poverty guideline for a family of four is about \$90,000 a year. **Mr. Armstrong** said if an individual does not want to reveal anything personal, "don't knock on our door." **Vice Chairman Nuxoll** asked if those people could still get insurance if they don't ask for a subsidy. **Mr. Armstrong** said anyone can buy insurance through the open market like is done today. There is nothing to stop an individual from buying insurance from an independent agent through their Idaho-based insurance companies.

Chairman Heider thanked **Mr. Armstrong**, said it was very helpful to have his perspective on the health insurance exchange and that the committee is going to look forward to a lot more discussion on it in the future. **Chairman Heider** introduced Roger Hales, of Naylor & Hales, P.C., to present four House Bills to the committee.

H 32

Mr. Hales said **H 32** proposes a straightforward addition to the Idaho State Board of Psychologist Examiners and will allow the board to promulgate rules setting forth standards and requirements for use of communications technology in the practice of psychology. (See Attachment 4a.)

- MOTION:** **Vice Chairman Nuxoll** motioned to send **H 32** to Senate floor with a do pass recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. **Senator Schmidt** volunteered to carry **H 32** to the Senate floor.
- H 33** **Mr. Hales** said **H 33** makes a simple change to the limited permit issued by the Idaho State Occupational Therapy Licensure Board. (See Attachment 5a.)
- Senator Schmidt** asked if a permit is granted before the applicant takes the licensing test. **Mr. Hales** said his understanding is that an applicant files an application, which establishes they've got the education and experience, and then would apply for a limited permit. The board would grant that and authorize the applicant to take the examination. The applicant then would have six months to fully complete and pass the examination – or, they could come back and request the board to extend the permit if they had some type of good cause.
- MOTION:** **Senator Lodge** motioned to send **H 33** to the floor of the Senate with a do pass recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**. **Senator Lodge** volunteered to carry **H 33** to the Senate floor.
- H 35** **Mr. Hales** said **H 35** accomplishes three things that deal with the authoritative rights of the Idaho State Board of Social Work Examiners as well as the board's ability to discipline. (See Attachment 6a.)
- Senator Schmidt** asked if a licensee fails to comply with a board order in another state, would that be grounds for disciplinary action in the state of Idaho. **Mr. Hales** said that is not the intent of the bill - it's meant to only deal with the Idaho Board of Social Work Examiners. **Senator Lakey** asked if the bill is focused and if it is an order that has entered in a disciplinary action. **Mr. Hales** said that was exactly right and that the bill is very limited.
- MOTION:** **Senator Lakey** motioned to send **H 35** to the floor of the Senate with a do pass recommendation. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**. **Senator Lakey** volunteered to carry **H 35** to the Senate floor.
- DISCUSSION:** **Senator Hagedorn** said Senator Schmidt brought up a very valid point on failure to comply with a board order and that the bill does not specify which board. **Senator Hagedorn** said he thinks it is a very valid concern and suggested Mr. Hales clarify the wording just to make sure, if there is a challenge in courts, the courts do not have any possible way to be confused. **Mr. Hales** said the word 'board' was obviously meant in the context of the Idaho State Board of Social Work Examiners, but that he understood the concern and would share it with the board and follow up on it. **Chairman Heider** said he wanted to remind the committee that the bill is related to the Idaho Board of Social Work Examiners, which is identified at the top of the heading, and that is the board referred to in the bill's paragraphs. **Senator Hagedorn** said he appreciated that very much. However, line 22 says "comply with a board," not "comply with the board," which would be consistent with the same board that the rest of the statute is working under. **Senator Hagedorn** said the wording is what opens the bill up to a bit of confusion.
- H 36** **Mr. Hales** said **H 36** accomplishes two things that deal with the authoritative rights of the Idaho State Board of Examiners of Nursing Home Administrators. (See Attachment 7a.)

Senator Martin asked, in regard to the \$1,000 fee requested with the bill, if the board currently has any fee for this category of licensees. **Mr. Hales** said it is a fine the board is unable to impose at this time and the statute would authorize that. **Senator Martin** asked who the licensee is referred to – a company; an individual? **Mr. Hales** said the board only licenses individuals, so it would be a licensed nursing home administrator – an individual. **Senator Martin** asked what ‘each’ would indicate in the wording of the bill – each violation or each day a licensee is in violation? **Mr. Hales** said it would have to be a separate violation – doing something more than once. **Mr. Hales** said the grounds for discipline call for pretty significant types of conduct.

Senator Guthrie asked if the fine went away if a violation was written and later found out to be inaccurate. **Mr. Hales** said licensees are entitled to constitutional due process and explained the process. Any time the board receives a complaint, it is investigated. If it is determined that there is some evidence of a potential violation, then that matter conceivably is the subject of a formal complaint. That licensee is provided notice of the formal complaint and it is tried before a hearing officer so that the licensee has the opportunity to defend themselves – they can bring their lawyer, etc. The hearing officer, a licensed attorney, will determine whether there is substantial evidence in the record to establish a violation. That recommendation is then provided to the board and the licensee has another opportunity to argue that the hearing officer was incorrect in the decision made. The board will take a position based upon all the testimony and all the evidence presented and take a position on whether or not there was a violation. If the board’s determines there was a violation, the licensee has the ability to argue a type of penalty to be imposed. Once the board takes a position on the violation and the discipline, the licensee has to appeal that decision to a district judge – to establish that the board acted consistent with the constitution, consistent with state law and that there was substantial evidence in the records to support the board’s position. **Mr. Hales** said this is not something in which the board simply writes a ticket and fines somebody, the board is obligated to go through a full constitutional process in order to discipline a licensee. **Senator Guthrie** asked what kind of revenue the board would have seen if the bill would have been in place over the last three years. **Mr. Hales** said, although he did not have that information available that day, he would be happy to provide it for the committee’s review. **Mr. Hales** said he was aware that there was at least one investigation that was brought to the board. **Mr. Hales** said he believes the board ultimately dismissed that matter this past year because it did not feel there was sufficient evidence.

Senator Lakey asked if the board would consider recouping its fees if an individual was found in violation and why that qualifier was not in the language. **Mr. Hales** said that is the intent for a violation and it is the qualifier – meaning the board would have to find the violation in order to order an award of costs and fees. **Mr. Hales** said that is consistent with the way the language is written in other statutes and, when it comes to the award of costs and fees, it is also governed by the Administrative Procedures Act (APA) and the Attorney General’s rules on dealing with the APA. **Mr. Hales** said he cannot envision the board pursuing this but in the circumstance where an individual has found to have violated that section of law. **Senator Lakey** said he was still concerned that the qualifier is not in the bill and asked about the \$1,000 fine being similar to other agencies and boards. **Mr. Hales** said it is actually a lot less than some boards out there. The medical board can go up to \$10,000 and the nursing board might have gone up to \$2,500, but most boards certified with the Bureau of Occupational Licenses have authority to issue a fine of up to \$1,000.

MOTION:

Senator Schmidt motioned to send **H 36** to the floor of the Senate with a do pass recommendation. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**, with **Senator Lakey** and **Senator Martin** voting nay. **Senator Schmidt** volunteered to carry **H 36** to the Senate floor.

Chairman Heider asked if Senator Lakey and Senator Martin wished to be recorded. **Senator Lakey** and **Senator Martin** said yes.

Chairman Heider said **H 34** was noticeably absent and asked Mr. Hales to explain why. **Mr. Hales** said there were interested parties on that bill who have expressed some concerns. **Mr. Hales** said the bill could be brought before the committee next year.

PRESENTATION: **Chairman Heider** introduced Elisha Figueroa, Administrator of the Office of Drug Policy, and Mark Johnston, Executive Director of the Board of Pharmacy, to do a presentation relating to prescription drug abuse issues.

Ms. Figueroa said she felt privileged to stand before the committee to talk about the prescription drug issue in Idaho and what the prescription workgroup is currently doing to address that. **Ms. Figueroa** said that in addition to Mr. Johnston, Anthony Nelson – a pharmacy student from Idaho State University and a member of the workgroup – will speak during the presentation. Prescription drug abuse is the nation's fastest growing drug problem, as identified by the Office of National Drug Control Policy. It has also been identified by the Centers for Disease Control (and Prevention) as a national epidemic. Unfortunately, Idaho is not protected from this issue. **Ms. Figueroa** said the most commonly abused medications are opioids or pain killers, as well as depressants and stimulants. A disturbing fact and trend is that those drugs are very commonly abused by – and are the drug of choice of – 12 and 13 year olds. **Ms. Figueroa** said the workgroup believes that is because of the availability. Those kinds of medications are available in almost everyone's medicine cabinets. Up until this point, most people thought they were fairly safe and have not locked them up and safeguarded them the way that they maybe should have. (See Attachments 8a and 8b.)

Mr. Nelson said he is the president of a group called Generation Rx. The group primarily combats prescription drug abuse several different ways, primarily through a 50-minute educational presentation that is shown to kids throughout the areas where the university is located – there is a chapter in Meridian and another in Pocatello. Additionally, the group does online presentations through the Idaho Digital Learning Academy – an online school that helps the group reach out to different communities in the rural areas that are out of reach due to financial reasons. **Mr. Nelson** described the members of Generation Rx as front line soldiers for groups like DrugFree Idaho, working big events and talking about prescription drug abuse to kids. The reason why Generation Rx is so involved is because of the alarming statistics coming out. **Mr. Nelson** said there are two stories that hit home to him regarding prescription drug abuse. Both centered on people who – either for fun or because of a lack of knowledge – mixed anti-anxiety medication with alcohol, went to sleep and never woke up. **Mr. Nelson** said Generation Rx members approach the prescription drug situation from a knowledge aspect and their presentation focuses on basic pharmacology. For example, members will tell high school students about what happens when a benzodiazepine or a depressant, mixed with alcohol, can affect the area of the brain responsible for breathing. It depresses it so much that, basically, when you go to sleep you forget you are supposed to breathe and you die. **Mr. Nelson** said Generation Rx's association with Ms. Figueroa's workgroup is really valuable because it provides resources for statistics and it allows them to know what is going on in the entire state. Also, it

helps give Generation Rx direction – they know where the state is headed and help to reach the goals of the state.

Ms. Figueroa said one of the incredible things about the workgroup is that it is made up of pharmacy students, pharmacists, healthcare providers – who understand the science behind this issue – social workers, parents and law enforcement officers – who do not understand all the ins and outs of how exactly those chemicals are reacting with the body. **Ms. Figueroa** said it is nice to be at a table where all those folks can come together, have discussions and work out what types of strategies that may or may not be successful.

Mr. Johnston said he is of member of the workgroup and would like to further explain the Prescription Monitoring Program (PMP), which the Board of Pharmacy is statutorily required to maintain for Idaho. (See Attachments 9a, 9b, 9c and 9d.)

DISCUSSION:

Senator Guthrie asked about the extent in which schools are being worked with.

Ms. Figueroa said the workgroup worked with statewide coalitions a couple of months ago and gathered the type of information and curriculum being used in the local schools. There is not a common curriculum being used statewide and not every school is providing information about prescription drug abuse. Generation Rx's program has been very successful but it's not statewide yet and that is something the workgroup is looking into. The workgroup is also watching to see what kind of evidence-based program is available for prescription drug abuse; there are several evidence-based programs that touch on several different substances but very little on prescription drugs. There are a couple programs that are being developed and/or improved that will highlight prescription drug abuse. **Senator Hagedorn** asked Mr. Johnston about the link between the PMP database and law enforcement to be able to go in and investigate abuse happening. **Mr. Johnston** said law enforcement only has the ability to access the system if they have a case number, which means they have already discovered a specific abuser and are requesting the PMP information. However, the Board of Pharmacy does have the ability to pass on unsolicited information to law enforcement and have done so.

Senator Hagedorn asked if it is routine to go through the PMP database and find abusers. **Senator Hagedorn** said with only 70 percent of individuals being linked into the PMP and only 10 percent using it, it seems that is not an effective use of the database. **Senator Hagedorn** said having someone run through the database to find profiles of abusers seems to be a much more effective methodology than following and chasing abusers from pharmacy to pharmacy, hoping someone will turn them in. **Mr. Johnston** said the board believes the most effective use of the system is to not create the doctor shopper in the first place, but to have physicians use the PMP before even prescribing medication. **Mr. Johnston** said he thinks the country is up to eight or twelve states mandating physicians use the PMP before they prescribe.

Ms. Figueroa thanked the committee for the opportunity to speak and said the Office of Drug Policy is always available to answer any questions on prescription drug abuse or any other drug-related topics.

**CONFIRMATION
HEARING:**

Chairman Heider announced the confirmation hearing of Jay F. Kunze to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 30, 2012 and expiring March 6, 2015. **Chairman Heider** asked Mr. Kunze to tell the committee about himself.

Mr. Kunze said this would be his third or fourth term with the Hazardous Waste Facility Siting License Application Review Panel. **Mr. Kunze** said he came to Idaho from the East Coast about 55 years ago after getting his education. He worked at the Idaho National Laboratory (INL) for about 20 years. In about 1973, he decided INL should get involved in developing Idaho's geo-thermal resource and was involved in leading the drilling in the first two geo-thermal wells. That resulted in creating heating systems for some of the buildings in downtown Boise, including the Capitol. **Mr. Kunze** said he also started the Raft River Project which the Department of Energy eventually had to abandon because they did not have the water rights for it – even though he had insisted the Department of Energy needed to get those from the state. The site has since been developed by U.S. Geothermal and is delivering about ten megawatts to Idaho Power. **Mr. Kunze** said most of his career's work has been in the nuclear field and that he is a very strong advocate for it because it is a non-greenhouse gas way of developing and producing energy/electricity, it is safe and Idaho has enough of that resource to produce all of its electricity for the next 1,500 years without mining anymore uranium. **Mr. Kunze** said officials just do not seem to have the fortitude to develop the research needed to build new reactors. **Mr. Kunze** said he is vitally interested in and concerned about the environment, what is being done to the planet and how it is being treated. **Mr. Kunze** said he is half-time retired and the one course he teaches this year is Energy and the Environment. He is married and has three sons, all graduates of Idaho State University.

DISCUSSION:

Senator Lodge asked what changes Mr. Kunze has seen for the better out at the site in Grand View. **Mr. Kunze** said the site has added additional pits and the panel has made trips out there each time to see what was being done. **Mr. Kunze** said he is quite impressed by the way that site is handling the waste that is brought in from all over the nation. **Mr. Kunze** said he originally thought the site would handle only Idaho's waste – but the state's waste is probably just a few percent of what is being brought in. The site is doing a real service for the entire nation. Other than expanding the site, there has not been anything that would give him concern. **Mr. Kunze** said the site very thoroughly monitors the waste coming in and if there is a problem, they deal with it before putting it into the pits. **Senator Martin** asked Mr. Kunze if he said he was an environmentalist who believes in nuclear energy. **Mr. Kunze** said that would be exactly right. **Senator Hagedorn** said he was in awe of Mr. Kunze's resume, thanked him for continuing to serve on the panel and asked him to describe the Aircraft Nuclear Propulsion program he was involved in as a nuclear engineer from 1959 to 1962. **Chairman Heider** said Mr. Kunze could respond if that information was not classified. Mr. Kunze said, to his knowledge, it has all been unclassified. **Mr. Kunze** said he joined that program straight out of school and it was really exciting. The idea was to put an airplane up in the sky that would stay there for weeks or months off the Russian coast, ready to take a nuclear weapon into Russia should they declare war on us. President John F. Kennedy cancelled it shortly after he became president because he felt the U.S. already had nuclear missiles that could deliver nuclear warheads to Russia, including via submarines, and there really was not a need to have this as well. **Mr. Kunze** said, looking back, if Russians were really going to declare war on the United States, that plane flying around up there at a very low speed on nuclear power would be the first thing the Russians would shoot down. So, President Kennedy cancelling the program was obviously the right thing to do.

Chairman Heider thanked Mr. Kunze and said he is a very interesting person with a very interesting background and history. **Chairman Heider** said the committee appreciates Mr. Kunze's willingness to serve on the panel and that the committee would vote on his Gubernatorial Appointment at the following Senate Health and Welfare Committee meeting.

ADJOURNED: There being no further business to come before the committee, **Chairman Heider** adjourned the meeting at 4:50 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, February 13, 2013

SUBJECT	DESCRIPTION	PRESENTER
Hearing	Committee consideration of the Gubernatorial appointment of Jay F. Kunze to the Hazardous Waste Facility Siting License Application Review Panel	
Presentation	Relating to ID State Health Insurance Exchange	Loel Fenwick
Hearing	Confirmation Hearing of Carol Mascarenas to the Board of Environmental Quality to serve a term commencing July 1, 2012 and expiring July 1, 2016.	Carol Mascarenas
Hearing	Confirmation Hearing of Beth Elroy to the Board of Environmental Quality to serve a term commencing September 18, 2012 and expiring July 1, 2016.	Beth Elroy

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 13, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED: Senator Guthrie

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairmen Heider** called the meeting to order at 3:00 p.m. and welcomed the audience. A silent roll was taken.

HEARING: **Chairmen Heider** welcomed Senator Kenyon to the committee, stating that he is substituting for Senator Martin. He announced first on the agenda was committee consideration of the gubernatorial appointment of Jay F. Kunze to the Hazardous Waste Facility Siting License Application Review Panel. He stated the committee had heard from Mr. Kunze the previous day and inquired as to the disposition of the committee.

MOTION: **Senator Hagadorn** moved to send the gubernatorial appointment of Mr. Kunze to the floor with the recommendation that he be confirmed by the Senate. **Senator Nuxoll** seconded the motion. The motion was carried by **voice vote**.

HEARING: **Senator Heider** invited Curt Fransen to the podium to introduce Carol Mascarenas and Beth Elroy.

Curt Fransen, Director of the Idaho Department of Environmental Quality, stated that it was his pleasure to introduce two of the Governor's appointees to the Board of Environmental Quality (Board). He stated that the first is Carol Mascarenas who was first appointed to the Board, and confirmed by this committee, to serve a four year term between 2008 and 2012. He stated she was reappointed by the Governor this past summer for a term that will end in 2016. He stated that she is currently the Chair of the Board. He stated that the second appointee is Beth Elroy, who was appointed by the Governor this past summer for her first four year term that will also run until 2016. He stated he is confident that both the materials provided and the statements from Carol Mascarenas and Beth Elroy will demonstrate the high quality of these individuals to serve on the Board of Environmental Quality.

Chairman Heider welcomed Carol Mascarenas and asked to hear from her regarding her qualifications.

Carol Mascarenas stated that she has lived in Idaho for twenty-two years. She moved from California after meeting her husband who had lived in Soda Springs and wanted to return. She has two children: a daughter, 16, and a son, 18. Professionally, she has a Bachelor's Degree and a Professional Engineering License in Civil Engineering with an environmental emphasis. She has 28 years of work experience, 22 of which was in hazardous environmental clean-up, environmental compliance and waste management. She also spent 3 years as the Director of Safety, Health and Occupational Medicine at Idaho National Laboratory (INL), and she is currently the Deputy Director for Environmental Safety and Health for Battelle Energy Alliance with INL. Highlights of her work experience as it relates to the board assignment are that she has worked as a state regulator, a private consultant helping potentially responsible clients manage clean-up requirements, also industry (Battelle Energy Alliance), and a government contractor for DOE. This experience has given her a balanced perspective on all sides of the issue regarding environmental regulations; from being a regulator to helping clients comply with regulations. While she was the INL regulatory director, she also served as the INL liaison to the Environmental Management Advisory Board for the state of Idaho. She toured the board at INL and feels that experience gave her a good perspective of what citizens are concerned about. In sum, she believes that her technical qualifications as well as her work and experience gives her a balanced perspective that she can bring to the Board of Environmental Quality. She referenced Mr. Fransen and reminded the committee that this would be a reappointment to the Board.

Senator Schmidt inquired if there are times when it is difficult to balance the different interests surrounding the environmental issues she faces. **Ms. Mascarenas** responded it is hardest concerning contested cases and trying to balance the concerns of the department, and their role in the case, what they bring to the table, and their approach while also understanding the other side, the party bringing the contested case. She stated this is when her experience is brought to bear.

Chairmen Heider thanked Ms. Mascaranas for her testimony and the time she has served on the Board, and welcomed Beth Elroy to the podium.

HEARING:

Senator Hagedorn thanked Ms. Elroy for her willingness to join the board and stated she has an impressive resume. He inquired as to what has surprised Ms. Elroy the most since beginning her board experience. **Ms. Elroy** responded that she has attended two board meetings and the level of professionalism at Department of Environmental Quality (DEQ) has surprised her. Even though she has worked with DEQ in her past, she didn't have a good appreciation for what went on behind the scenes. Her experience with the director and his staff has impressed her. She stated she wouldn't say it surprised her, but she has really enjoyed getting to know more about the department over the last couple months.

Chairman Heider inquired as to what Ms. Elroy thought are the larger issues facing DEQ. **Ms. Elroy** responded the first is attracting and retaining top quality employees. She thinks it is very important the employees and DEQ receive the proper training and ongoing education to help them understand the issues facing businesses in Idaho from the environmental perspective, from greenhouse gas emissions to water issues. The second issue, which is going to be a demanding issue for the department, is primacy on water permitting. This is something that the regulated community has talked about for years, whether or not the state of Idaho should pursue primacy for National Pollutant Discharge Elimination System, the water permitting program. She sees this as an issue that the department will have to work through during the negotiated rulemaking process over the next couple years.

Chairman Heider thanked Ms. Elroy. He announced Loel Fenwick was next to speak to the committee, for the second time, in regards to his perspective on health care coverage in Idaho. He directed Mr. Fenwick to keep his presentation to 20 minutes.

PRESENTATION: Dr. Loel Fenwick thanked the committee for allowing him to describe his free enterprise pilot program. He stated that last time he was before them, he told them that the health care system had become unsustainable. The top-down management strategy is being abandoned around the world, including in China. **Dr. Fenwick** stated that he helped the Chinese develop a free market system two years ago, because it was recognized as the most effective way to provide for the consumer. He stated that the cost of health care has been growing at an unsustainable rate. It now costs nearly twenty percent of our Gross National Product (GNP), or about three trillion dollars, with forty-two percent of that wasted on overhead. This has placed a burden on the American family, which spends an average of twenty-one thousand dollars a year on health care costs. This drains the savings of Americans and keeps many from reaching the middle class.

He showed a breakdown of current health care cost, and illustrated that less than half of costs go towards paying for necessary medical expenses. The free enterprise system that he proposes works the same way as the market for computers, cars or houses. This allows an elimination of much of the overhead and cuts the cost of Idaho's health care costs by about nine billion dollars as well as saves the consumer about two hundred thousand dollars by the time they reach retirement. He showed a picture of his family and stated that they have been able to avoid buying health insurance by setting aside assets which has saved them thousands of dollars. He stated that each family should be able to do this and save themselves money as well as encourage savings for Idaho industries and the state.

He stated the idea of the pilot program was developed a few years ago. He stated the new federal program seeks to make the current system sustainable through the individual insurance mandate and health insurance exchanges. The changes under the Affordable Care Act require a federal enforcement agency that serves a massive federal data hub. This structure looks like a spider web that includes five agencies; the Health and Human Services, Internal Revenue Service (IRS), Social Security, Department of Human Services, and the Department of Justice. It is described as a free market insurance system but it is really not about insurance at all, rather it is a registration and enforcement system for national health care. He furthered it is the way individuals will register and the way the IRS will enforce penalties for noncompliance, and urged caution in regard to the system.

He stated this system will cost Idaho seventy percent more in health care costs because that is the projected inflation. This system will cost the state millions of dollars to run the exchange. He stated that the system nationally will increase the cost of health care and there is currently no adequate plan to cover those cost increases. He continued by stating that Idaho should not help perpetuate a failed system but should replace it with something that works. He advised the committee that there are two choices: 1) enable ObamaCare to survive at the cost of six billion dollars to the state of Idaho, and increase health care costs for the Idaho family to thirty-five thousand dollars per year from the current twenty-one thousand dollars; or 2) the alternative is to implement this pilot program, which would save three and a half billion dollars. He stated this choice wasn't about what type of exchange we should have, but rather what will allow Idaho to develop and what would work for this state.

He stated Idaho should be an example for the nation. He warned that if the federal government allows Idaho to set some conditions under S 1042, they may pass laws in the future that would not allow those conditions. He referenced a statement by Supreme Court Justice John Roberts, which stated the federal government has no power to order people to buy health insurance. **Dr. Fenwick** advised that the only thing the Court had ruled on was the ability of the federal government to tax. The federal government needed the states' involvement to legally implement this health care reform, but the states would have little control over the program. He furthered that Justice Roberts suggested that the states need to recognize their role in checking the power of the federal government and not yield to the pressure to implement this form of health care reform. **Dr. Fenwick** stated that the common sentiment that if we don't implement an exchange we will be breaking the law is untrue, that it is also important to uphold the United States Constitution and Idaho's Constitution. He stated the best course, at this stage, is to wait to see how the reform plays out in the courts.

Dr. Fenwick stated that we should step back and consider alternatives which include his plan as well as a proposal by Senator Thayne and the ideas of Vice Chairman Nuxoll. He stated it was important to protect the state of Idaho. He warned that any form of ObamaCare would be expensive and Idaho should not think it will be subsidized by the federal government because they don't have any money. He stated that if his pilot program could be implemented across the nation like his maternity care program was it would save the nation two trillion dollars. He urged the legislators to consider his plan not as a political issue, but as a viable option to health care reform.

Senator Hagedorn stated that he is not seeing an outline of a program that would accomplish the things Dr. Fenwick talked about; he furthered that he does not understand why legislative action would be required if this program is a free market solution. He stated that until he can see a viable program, he only sees two options. He stated he doesn't want the federal government coming into Idaho, but doesn't see another alternative to a state-based exchange. **Dr. Fenwick** responded that most legislators haven't seen a complete presentation of the program and offered to give Senator Hagedorn and all the members of the committee a sixty page summary of the program, which is all a power point presentation, so it is like reading ten pages. He stated that it has been vetted by think tanks, and he is available to answer any questions.

Vice Chairman Nuxoll asked Dr. Fenwick to give a simple explanation of how the program works. **Dr. Fenwick** responded that instead of paying eight hundred thousand dollars in insurance over a lifetime, of which only two hundred thousand dollars on average is paid in medical expenses, five hundred thousand dollars is placed in an account. That account is owned by the individual and that individual can go shopping for medical services. He described how members of his family have done this, which has allowed them to negotiate prices and save money.

Vice Chairman Nuxoll inquired as to how the money gets into their account. **Dr. Fenwick** described how employers pay the majority of insurance premiums. To start, employers could put in a certain amount of money, which could be less than what they would pay for insurance premiums. It would save them money as well as the individual. Catastrophic insurance would only have to be purchased to cover what the account wouldn't and as the account grows, less of this insurance would have to be purchased.

Chairmen Heider thanked Dr. Fenwick. He asked the committee if anyone would like to carry the confirmation of Beth Elroy on the floor. **Senator Hagedorn** stated that he would like to.

ADJOURNED: **Chairman Heider** adjourned the meeting at 3:44 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, February 14, 2013

SUBJECT	DESCRIPTION	PRESENTER
RS22035	UNANIMOUS CONSENT REQUEST that RS 22035 (relating to Behavioral Health Services) be printed by a privileged committee (Judiciary and Rules) and send back to Health and Welfare for further reading and consideration	Ross Edmunds
Hearing	Committee consideration of the Gubernatorial appointment of Carol Mascarenas to the Board of Environmental Quality	
Hearing	Committee consideration of the Gubernatorial appointment of Beth Elroy to the Board of Environmental Quality	
Hearing	Committee consideration of the Gubernatorial appointment of Jay F. Kunze to the Hazardous Waste Facility Siting License Application Review Panel (heard yesterday, but needs sponsor)	
S 1071	Organ Donations/Auto Accidents	Alex McDonald
S 1072	Organ Donation Contribution Fund	Alex McDonald
H 17	Pharmacy Board, Provision Revised	Mark Johnston

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 14, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:02 p.m.

RS 22035 **Chairman Heider** said the first item on the agenda was in regard to **RS 22035**, which is relative to behavioral health and was sent to the committee by Ross Edmunds, Administrator of the Division of Behavioral Health for the Idaho Department of Health and Welfare. **Chairman Heider** said the committee did not need to read through it, but that **RS 22035** needed a unanimous consent to send it to the privileged committee of the Senate Judiciary and Rules Committee. **Senator Hagedorn** asked if **RS 22035** was seen previously by the Senate Health and Welfare Committee. **Chairman Heider** said, no, it was a new bill.

UNANIMOUS CONSENT: **Chairman Heider** asked for unanimous consent to send **RS 22035** to the Senate Judiciary and Rules Committee for a print hearing. There was no objection.

DISCUSSION: **Chairman Heider** said the unanimous consent vote was procedural and needed to be sent to the privileged committee to be printed. If printed, it will be sent back to the Senate Health and Welfare Committee as a consented bill for discussion and approval. **Senator Bock** asked if there had not been unanimous consent, would the Senate Health and Welfare Committee then taken a roll call vote? **Chairman Heider** said the committee would have debated the issue and, then, taken a roll call vote.

GUBERNATORIAL APPOINTMENT: **Chairman Heider** asked for the consideration of the gubernatorial appointment of Carol Mascarenas to the Board of Environmental Quality.

MOTION: **Senator Schmidt** moved to send the gubernatorial appointment of Carol Mascarenas to the Board of Environmental Quality to the floor with recommendation that she be confirmed by the Senate. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman Heider** asked for the consideration of the gubernatorial appointment of Beth Elroy to the Board of Environmental Quality.

MOTION: **Senator Hagedorn** moved to send the gubernatorial appointment of Beth Elroy to the Board of Environmental Quality to the floor with recommendation that she be confirmed by the Senate. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

Chairman Heider said the committee had already approved the gubernatorial appointment of Jay F. Kunze to the Hazardous Waste Facility Siting License Application Review Panel to be sent to the Senate floor.

Chairman Heider asked for volunteers to carry the gubernatorial appointments to the floor. **Senator Guthrie** volunteered to carry Mr. Kunze's appointment; **Senator Hagedorn** volunteered to carry Ms. Elroy's appointment; and **Senator Bock** volunteered to carry Ms. Mascarenas's appointment.

S 1072

Chairman Heider said Alex McDonald, public relations director for Intermountain Donor Services, would be presenting **S 1072** to the committee.

Mr. McDonald said **S 1072** would allow people to voluntarily donate two dollars when they first get or renew their driver's licenses and vehicle registration. That money would go for education and outreach about organ, eye and tissue donation and so that people who say yes to donation will know what they are saying yes to.

Vice Chairman Nuxoll asked if it was true that families of organ donors do not get compensated. **Mr. McDonald** said that was correct. **Vice Chairman Nuxoll** asked Mr. McDonald to explain, again, what the \$2 donation is used for. **Mr. McDonald** said the money is used to educate people about what Yes Idaho Donor Registry is all about and to educate people on what they are saying yes to when they agree to organ, tissue and eye donation. Also, to educate donors on how – should decide they want to limit their donation or maybe rescind it – they can do that online. A lot of the money would go toward making brochures that are printed, maintenance of the registry, etc. **Vice Chairman Nuxoll** asked Mr. McDonald for his opinion on paying donors or their families for organ donations. **Mr. McDonald** said, by federal statute, it is illegal to pay donor families. But, there has been some work toward the possibility of paying for funerals, offering tax incentives or tax breaks to families whose loved one was an organ, eye and tissue donor. **Mr. McDonald** said his organization support all of those things, but are opposed to cash payments because it would get very complicated with the possibility of people potentially lying about their or their loved ones' medical history in order to get paid. **Mr. McDonald** said it could also be considered coercive and donation organizations need to be very sensitive to those kind of ethical and moral issues.

Senator Guthrie asked why the donation amount was not more open-ended for those who wished to donate more than \$2. **Mr. McDonald** said people can actually donate more than \$2 if they wish.

Senator Schmidt asked what the current funding for the Yes Idaho Donor Registry is and what is Idaho's current percentage or ranking of people who agree to be donors. **Mr. McDonald** said the federal government divided up the country into 58 regions, with Idaho being blessed with three organ recovery agencies: Intermountain Donor Services serves the southern part; Pacific Northwest Transplant Bank out of Portland serves the middle; and the panhandle is served by LifeCenter Northwest out of Seattle. There are also two eye banks that serve northern and southern Idaho and three tissue agencies that serve Idaho as well – one in the panhandle, one in central Idaho and the other in southern Idaho. **Mr. McDonald** said each of the seven agencies currently working in Idaho pitch in for the maintenance for the Yes Idaho Donor Registry, public education brochures, etc. Currently, the funding is about \$45,000 per year. **Mr. McDonald** said Idaho has about 62 percent of its licensed drivers signed up for organ donation. Last year, Idaho was awarded a gold medal nationally for the performance of the registry. **Senator Schmidt** asked who administers the Yes Idaho Donor Registry at this time and how the \$2 donations would be accounted for. **Mr. McDonald** said Intermountain Donor Services currently manages the

Yes Idaho Donor Registry, while working with a database manager who provides all the security, etc. for the data. **Mr. McDonald** said the monies from the donations would go through Idaho's Health Department and invoices would be submitted for the extra public education being planned.

Senator Guthrie said there were inconsistencies in the donation wording, either stating "a contribution of \$2" or "\$2 or more." **Mr. McDonald** said the bill was written in order to leave it open for people who want to make more than a \$2 donation. However, administratively, it might be easier to keep the donation amount at \$2 and there would be no issue to just keep it at the \$2 amount. **Mr. McDonald** said his organization will take a look at and fix the inconsistencies.

Senator Hagedorn asked if Yes Idaho Donor Registry is a private sector registry populated with information from the Idaho Transportation Department (ITD) and if the registry knows who the donors are. **Mr. McDonald** said that was correct.

Senator Hagedorn asked if there is a restriction right now for the private sector to solicit funds. **Mr. McDonald** said all the agencies serving Idaho are non-profit and will hold fundraisers, etc.

Senator Schmidt asked if the wording in the bill about monies "could" apply for education means that those monies could be used in other ways. **Mr. McDonald** said the intent is to use the money is strictly for public education and maintenance of the Yes Idaho Donor Registry. Since there will be itemized bills on what the money is being requested for, there will be a checks and balances system to keep track of the money.

Senator Lakey asked which organization would apply for the funds and how each organization manages where donated organs go. **Mr. McDonald** said his organization is strictly organ recovery. When there is a death or pending death a hospital, by law, alerts the organization. At that point, the organization submits information into a computer – such as 30-year-old male, six feet tall, 200 pounds, blood type A – to find out where the next sickest person is waiting for a transplant. That national list is compiled by the United Network of Organ Sharing (UNOS) and is something organ donation organizations must follow. Once the organs are recovered, they are delivered to transplant centers.

Vice Chairman Nuxoll asked how the prices are set for organs that are picked up. **Mr. McDonald** said the way his organization is reimbursed is by adding all of the costs together at the end of the year – salaries, operating room fees, surgeons' fees, etc. – and that number is divided, according to a federal formula, by the number of organs recovered. Different organs are weighted at a certain amount so next year, based on estimates, the organization will know what to charge to recover the organs. At this time, it costs about \$42,000 to recover a heart and take it to a transplant center. **Mr. McDonald** said there are about five or six different state and federal entities, including processors, that audit the organ recovery agencies. **Vice Chairman Nuxoll** said since there is such a shortage of organs and competition to receive donated organs, how is it decided to which organization does a certain hospital's organ go to? **Mr. McDonald** said there is really no competition in the sense that certain organ recovery agencies serve very specific geographic areas. And, again, the UNOS list alerts the organ recovery agencies as to which transplant center to take the organs to.

Senator Hagedorn asked how much the expected cost of the outreach and education would be? **Mr. McDonald** said he guesses it will cost about \$45,000 to \$60,000 a year after a couple of initial years of set-up, which has been the experience in Utah. **Senator Hagedorn** said, in calculating the numbers from 2012, there were about 166,000 drivers licenses issued with organ donor checkmarks on them. If 50 percent of those 166,000 people donated \$2, that would generate about \$80,000 or more. And, factoring in the probability that an organ donor would throw in an extra couple of dollars, that could mean upwards of \$300,000 per year coming in. **Senator Hagedorn** said that was a lot of money for education and outreach and asked **Mr. McDonald** if he had run those numbers. **Mr. McDonald** said Utah averages about \$65,000 per year with a sign-up rate at about 70 percent, which is a little higher than Idaho. That average is over the last eight years and is the closest comparison with calculations that are pretty similar.

Senator Schmidt asked if the donor funds would be available to all organ, tissue and eye donor recovery agencies and, since the donation program has been in effect in Utah, had **Mr. McDonald** seen an increase in enrollment in the donor checkbox. **Mr. McDonald** said, yes, all of Idaho's donor recovery agencies would have a say in how the money is spent and, yes, there has been a steady increase of about a two to four percent a year in people agreeing to donor enrollment.

Chairman Heider asked if anyone would like to testify on **S 1072**.

MOTION:

Senator Bock said he appreciated Senator Guthrie's eagle eye and that it would be nice if the wording of "or more" on the donation amount was consistent in the bill. **Senator Bock** moved that **S 1072** be referred to the 14th order for amendment. **Vice Chairman Nuxoll** seconded the motion.

**SUBSTITUTE
MOTION:**

Senator Hagedorn said he was uncomfortable with the numbers he calculated in regard of how much money could be generated with the \$2 donations. **Senator Hagedorn** said he would like to see more information on Utah's numbers, such as how much money has been donated, how many of the driver's license holders are donors, how much this particular account in Utah holds, what is the turnover, etc. **Senator Hagedorn** moved that **S1072** be returned to the sponsor. **Senator Guthrie** seconded the motion.

DISCUSSION:

Senator Bock said his impression of the donation is that it is not as if it would be collected per head, per year. **Senator Bock** gave an example of a relative who has an eight-year license. **Senator Hagedorn** said in 2012, there were 166,000 drivers licenses issued with a donor box. So in that particular case, if all 166,000 donated \$2, there would be over \$300,000 in that account. **Senator Hagedorn** said that is what he is concerned about and would feel better about the bill if there was something to use for comparing numbers. **Senator Bock** said the donation is voluntary and that the numbers coming in are not going to be equal to \$2 times 166,000.

**ROLL CALL
VOTE:**

Chairman Heider called for a roll call vote on the substitute motion. **Vice Chairman Nuxoll**, **Senator Hagedorn**, **Senator Guthrie** and **Senator Schmidt** voted aye. **Chairman Heider**, **Senator Lodge**, **Senator Kenyon**, **Senator Lakey** and **Senator Bock** voted nay. The substitute motion failed.

**ROLL CALL
VOTE:**

Chairman Heider called for a roll call vote on the original motion that **S 1072** be referred to the 14th Order for amendment. **Chairman Heider**, **Vice Chairman Nuxoll**, **Senator Lodge**, **Senator Kenyon**, **Senator Lakey**, **Senator Bock** and **Senator Schmidt** voted aye. **Senator Hagedorn** and **Senator Guthrie** voted nay. The motion carried.

S 1071

Chairman Heider said **S 1071** would be sent back for revision. The bill indicates that law enforcement officers, firefighters and emergency service personnel would notify Intermountain Donor Services of victims at a scene of an emergency. **Chairman Heider** said the person who brought the bill before the committee decided to correct the wording to state that rather than first responders making notifications, their dispatch centers would. **Chairman Heider** said once the corrections are made, **S 1071** will be back before the Senate Health and Welfare Committee.

H 17

Chairman Heider introduced Mark Johnston, Executive Director of the Board of Pharmacy.

Mr. Johnston said the Board of Pharmacy hopes to accomplish two things with **H 17** that deal with expansion – the practice of pharmacy into Idaho and the registration of nonresident pharmacists practicing in Idaho – and the regulation nonresident drug outlets and pharmacists that practice pharmacy into Idaho. (See Attachment 11a.)

Vice Chairman Nuxoll asked what this bill eliminates. **Mr. Johnston** said the bill actually expands the number of mail-service pharmacies that would be able to practice in a pharmacy in Idaho. **Vice Chairman Nuxoll** asked if that includes out-of-state pharmacies. **Mr. Johnston** said that was correct. For example, Walgreens currently has an operating center in Florida and Arizona. When you go to a Walgreens pharmacy and hand your prescription over, it will be scanned in. At that time, a technician in Arizona who is overseen by a pharmacist will do the data entry so it shows up electronically for the pharmacist. That is not a practice currently allowed into Idaho. This proposal would open up that practice into Idaho. **Vice Chairman Nuxoll** said about a year ago, there were a lot of rural pharmacies complaining about mail-order pharmacies and that it possibly had something to do with price and availability. **Vice Chairman Nuxoll** said she did not think that was fair and asked if those questions were answered in this bill. **Mr. Johnston** said the board has no statutory authority to deal in pricing whatsoever and **H 17** does not touch on that at all.

Senator Bock asked how the liability chain works and how would Idaho hold out-of-state pharmacies responsible if they make a mistake. **Mr. Johnston** said independent therapy tele-pharmacy across state lines is a very structured process and has many different elements that have to be followed. One of them is an audit trail documentation that accounts for any number of different people involved in the process. Right now, that is not required in mail service pharmacies. **Mr. Johnston** said there are over 500 mail service pharmacies registered to ship into Idaho and they do not have to follow that process. An upcoming set of statutes follows up on this set of rules and will impose that duty upon them. **Senator Bock** asked if an out-of-state pharmacy has to consent to Idaho jurisdiction before it fills a prescription. **Mr. Johnston** said there is no current requirement of that, so all 500 mail service pharmacies that ship into Idaho are not required to have a contractual obligation with the people, namely the insurance companies that they contract with, to ship into Idaho. In the rules that follow this set of statutes, that contractual obligation will be required. **Senator Bock** asked if a hospital dispenses a prescription from an out-of-state pharmacy to somebody and that person dies as a result of something that went wrong, is Idaho not able to sue that out-of-state pharmacy? Also, how can Idaho make out-of-state pharmacies accountable? **Mr. Johnston** said Senator Bock is absolutely correct and that Idaho currently has no means to address, in that manner, the 500 mail service pharmacies shipping into Idaho. However, the Board of Pharmacy put a number of different elements into the bill that will now allow it to do that. **Senator Bock** asked if the requirement of out-of-state

pharmacists to register in Idaho would make them subject to Idaho jurisdiction. **Mr. Johnston** said this would expand that registration out to any pharmacy, not just an institutional pharmacy.

Senator Schmidt asked about the accountability issue with out-of-state pharmacies and pharmacists, and what the board can pursue in regard to action against the pharmacies and pharmacists. **Mr. Johnston** said mail service pharmacies were originally able to pass the Out-of-State Mail Service Pharmacy Act by convincing the board in legislature that the home board pharmacy would take precedence – if something happens in your state, notify the home board and they will take care of it. For the most part, they do, but there have been exceptions where that was not the case. **Mr. Johnston** said different states have different funding for their board of pharmacies and some are very responsive, like Colorado and Iowa. Some are not so responsive, like Washington and Utah. For the most part, Idaho's board had hoped to still rely on that system, have the home state board deal with it and then mirror what they come up with. However, the board did put in the provision that if it has to go to investigate or inspect, it could recoup those costs.

MOTION:

Senator Schmidt moved to send **H 17** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Chairman Heider asked Emma Fredericksen to come forward and thanked her for the time she served as the Senate Health and Welfare Committee page during the first six weeks of the 2013 State Senate Session and told her she had done a wonderful job. Ms. Fredericksen was presented with a signed letter from the Idaho State Senate and a gift from the Senate Health and Welfare Committee.

Chairman Heider recognized Nerissa Schmechel, the new Senate Health and Welfare page for the final six weeks of the 2013 Senate Session.

ADJOURNED:

There being no further business before the committee, **Chairman Heider** adjourned the meeting at 4:16 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 18, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>RS22050</u>	UNANIMOUS CONSENT REQUEST that RS 22050 (relating to Minimum Standards for Radiologic Imaging) be printed by a privileged committee (Judiciary and Rules) and send back to Health and Welfare for further reading and consideration	
<u>RS22060</u>	UNANIMOUS CONSENT REQUEST that RS 22060 (relating to Organ Donor Notification) be printed by a privileged committee (Judiciary and Rules) and send back to Health and Welfare for further reading and consideration	
<u>S 1053</u>	Food Stamps	Rep. Christy Perry
<u>S 1063</u>	Medical Consent and Natural Death Act	Ken McClure
Presentation	Relating to Medicaid and Welfare Fraud	Steve Bellomy, Bureau Chief of Audits and Investigations, Department of Health and Welfare

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 18, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 3:00 p.m. and welcomed the audience. He asked the secretary to take a silent roll.

RS 22050 **Chairman Heider** stated that there are two unanimous consent requests on the agenda for today. The first one deals with a new law, establishing the requirements for the radiology in the state of Idaho. We are asking the committee to unanimously consent to send **RS 22050** to the Judiciary and Rules Committee for printing. He asked if there were objections; there were none.

RS 22060 **Chairman Heider** informed the committee of the second unanimous consent request, **RS 22060**, relating to organ donor notification. He reminded everyone that the committee had sent this back last week to receive a new RS, and furthered that rather than being notified at the scene of an organ donor, notification will come through the organization. The RS was reprinted, and we are now asking the committee to unanimously consent to also send **RS 22060** to the Judiciary and Rules Committee for printing and returned to Health and Welfare. He asked if there were objections; there were none.

S 1053 **Relating to Food Stamps. Representative Christy Perry** stated that the food stamp conversation has returned. There has been a lot of angst regarding the amount of money spent at the state and federal level, the eligibility criteria, the foods that are allowed to be purchased, and the education that should occur on food purchases. Many of those items, at this point in time, we do not have control over. This bill deals with the distribution policy in the state of Idaho. Several years ago, in the effort to cut costs, the Idaho Department of Health and Welfare (Department) changed from the staggered issuance system to the single day distribution system on the first of the month. This coincided with a record increase in participants, a 278 percent increase. Many stakeholders are of the opinion that the number of participants, which was approximately 260,000 people statewide, will not significantly decrease anytime soon. It is the combination of the record number of participants, the move to a single-day issuance, and the fact that the single day distribution often coincides with social security payments, Supplemental Security Income payments, retirement pensions, and the regular payday for a vast number of citizens that has created the perfect storm in grocery stores for all Idahoans.

Representative Perry mentioned Matt Whistle, of Whistle Farms in Canyon County, who continues to struggle to get fresh produce and other foodstuffs in quantity to the grocery stores for a single day issuance. Single day issuance has created many other difficulties that impact the bottom lines at stores, producers and customers. It is thought that staggering the issuance will not improve customer service, but may fix the massive congestion in stores. At this point, there is no known intention by the state of Idaho to spend taxpayer money on this endeavor, but it is being accomplished in various ways at the nonprofit level. The Idaho Food Bank is expanding its program, Cooking Matters, which teaches low-income families how to get more food for their money and better nourishment from those foods. The program also teaches shopping and budgeting. This week, the Idaho Farm Bureau Federation is hosting Food Check-Out week, which focuses on helping people learn how to stretch their grocery dollars with healthy and nutritious foods.

Representative Perry observed that the fiscal impact statement causes some concern. The project calls that, for the first four months, there will be automation changes with a one-time operational support of \$115,000. Then combined with that is the cost for printing, flyers and educational materials, \$159,000. For a staggered issuance, cards will be distributed that are embossed with names, something we did not previously have. The Department reports first year operating costs of card embossers, current and temporary staff salaries and benefits, ongoing annual costs of personnel and operating costs.

She furthered that the Joint Finance-Appropriations Committee (JFAC) will take the fiscal impact statement and take that into consideration; however, they have budgets that are presented to them from the Department and JFAC will decide the amount of money that is to be spent. She indicated that she will be working with the chairman of JFAC on this matter.

Vice Chairman Nuxoll asked if the embossed name is a safeguard against fraud, or are there further safeguards. **Representative Perry** replied that this particular bill deals with distribution, and that we are only concerned with the cards at this time, along with the staggered issuance. Staggered issuance will change when a person gets their benefits; it will go by the date of birth and the year of birth. The last number of the date of birth will be when you will receive your benefits. That number will be included on the card, along with names. There have been great strides in curtailing fraud, such as computer programming that will look at activity on the card and can red flag anything odd.

Vice Chairman Nuxoll then inquired about cost and asked Representative Perry where the expense is coming from. **Representative Perry** replied that there are hard costs involved: the cards and embossers, automation changes and one-time operational support. Another question is personnel, which may be the largest part. That is a conversation that we need to have in JFAC in the near future.

Vice Chairman Nuxoll asked what the total might be for the hard costs, the set-up and the ongoing annual costs. **Representative Perry** responded that the numbers that she presented came from the Department. She explained that the food stamp program is not a line item, but rather done in their budget.

Senator Hagedorn asked Representative Perry to break down the numbers for him for clarity. **Representative Perry** informed the committee of the following amounts provided to her from the Department of Welfare:

- Automation - \$44,000
- Communication/Notification - \$100,000
- Signage - \$6,000
- Office Furniture/Equipment - \$4,300
- Telephone Increase - \$4,700
- Card Machine Maintenance - \$23,600
- Additional Staff (Personnel and Capital) - \$208,000
- Temporary Employees - \$292,600

Representative Perry commented that she understood the hard costs involved, but maybe the personnel costs could be looked at again. JFAC would have ultimate authority.

Senator Schmidt stated that Representative Perry mentioned that the Department switched to a single day issuance a few years ago, and is there a history of the experience that the Department has and what led them to go to single day issuance. **Representative Perry** replied that this coincided with the great recession that happened. Idaho and all agencies were looking for ways to cut costs. What was not realized was that the number of participants would sky-rocket; it grew 278 percent. It also coincided with a change in their administration system, Idaho Benefits Eligibility System. The costs savings that occurred took place in conjunction with this new administrative system and not necessarily because of the single day issuance. In the past, Idaho did a five-day issuance. The Department of Health and Welfare has done research into this, and determined that it would be best to do a ten-day staggered issuance instead.

Senator Lakey asked for clarification regarding the print hearing, in which Representative Perry mentioned that the initial money was in existence in the Department. **Representative Perry** replied that there is a large amount of money, and she understood that it is still in reserve. It came from a million-dollar bonus that came from the federal government. She voiced uncertainty about the appropriation of that money.

Senator Lakey then asked if there was someone from the department at the meeting today that would be able to address that further. **Representative Perry** responded that Russ Barron from the Department of Health and Welfare was going to speak.

Russ Barron, Administrator for the Division of Welfare, approached the podium and stood for questions. **Senator Lakey** asked how many personnel were currently in the program and how many more were needed. **Mr. Barron** informed the committee that, currently, there were 160 food stamp employees. What is included in these costs regarding additional staffing is ongoing staffing, which includes four full-time-positions (FTP). When the change was made from a five-day staggered issuance to a ten-day staggered issuance, we were able to move three people who were customer service representatives off the phones into actual eligibility work. We saw that more eligibility work was needed. The savings is more of a productivity improvement because of the reduced number of calls. Keeping down the confusion factor is where the cost comes from. What is not included in these numbers is that we work with JP Morgan as our contractor that actually loads money onto cards. We have been trying to bring this down to the lowest cost possible and yet make it effective and manageable. It's a problem for participants and retailers.

Senator Lakey followed up by asking about the four FTP's and the \$500,000 for permanent and temporary staff; how many are you anticipating? **Mr. Barron** answered that for the ongoing, there would be four permanent positions. The \$500,000 for what I call first year operations includes those four individuals as well. We started off with eight or ten temporary staff, which goes down month after month to where we won't need them in the second year. Another item I should mention is that we get 10,000 applications a month. We get 15,000 recertifications every month. We explain when they should receive their food stamps, and those hours add up, creating almost three positions of work. We have tried to streamline and change our processes to be as efficient as possible with a reduced staff.

Senator Lakey asked Mr. Barron to address the \$1 million federal grant and the availability of those funds. **Mr. Barron** replied that \$1.2 million was based on three areas of performance. Of that funding, \$300,000 was set aside to kick off this program. That does not cover everything in the first year of operations.

Senator Lodge interjected that the Department was sanctioned in a year she was not certain of, but asked how much was the sanction in regard to the problems encountered with the distribution of food stamps.

Mr. Barron informed the committee that in 2005, the Department was sanctioned about \$277,000; in 2006, the Department received a second one, which was a little bit less. Since then, we have not been sanctioned. **Senator Lodge** asked if there has been complaints by recipients about receiving food stamps on the first day of the month. **Mr. Barron** responded that he has not received any complaints from participants. If he had, he would have informed that person that they did not have to go to the store on the first day of the month, you can do at a later date. The last information that he had seen showed that 15 percent of food stamps are spent on day one and gradually reduces to about 1.7 percent on the last day.

Senator Lodge asked for clarification on the 15 percent for the first day, and also why was the first day of the month chosen. Was it due to social security benefits and veteran's benefits being distributed on the first day of the month, so that would make it easier for the elderly and disabled to plan on shopping to avoid multiple trips? **Mr. Barron** replied that the first day was not chosen because it would be best for any particular group of people, but rather knowing that people would be needing their food stamps as quickly as possible. At first, it was spread out over the first five days, and then just moved it to the first day because we were receiving several complaints then from people not knowing when they were to receive their food stamps. We were trying to reduce confusion.

Senator Hagedorn asked the percentage of Idahoans on the Supplemental Nutrition Assistance Program (SNAP); and if the card embossing with names goes forward, how will that affect fraud? **Mr. Barron** replied that the number of Idahoans on SNAP is about 14-15 percent, which is about 230,000 individuals participating. He was uncertain concerning projections on fraud reduction.

Senator Hagedorn inquired if there was an incentive program from the federal government for Idaho in a SNAP program incorporating anti-fraud measures to save those federal dollars. **Mr. Barron** indicated that there is not a program of that nature that he is aware of. The program that Idaho participates in concerns performance, accuracy and timeliness. There are guidelines provided by the federal government to reduce fraud, but he didn't know of a reward program.

Senator Bock asked if SNAP recipients have the option to pick the day they wish to receive food stamps. **Mr. Barron** stated everyone gets their food stamps on their card on the first day of the month by 7 a.m. No one has to go that day to use their food stamps, but can use it anytime during the month.

Vice Chairman Nuxoll asked for the definition of staggering in this bill. **Mr. Barron** replied that staggered would be consecutive days over the first ten days of the month. There would be an equal distribution for each of those ten days. **Vice Chairman Nuxoll** then inquired what the ongoing expense would be of federal funds. **Mr. Barron** replied that it would be a 50/50 match.

Senator Guthrie inquired if a person did not use all of their SNAP benefits in one month, would the balance carry over to the next month, or was it a "use-it-or-lose-it" situation. **Mr. Barron** that the balance would carry over.

Senator Martin asked if the committee passed this, and JFAC does not fund it, what would transpire then. **Mr. Barron** replied that it would be difficult to implement something if the funding was not there.

Chairman Heider asked if there were already over \$600,000 in the Department for this operation, regardless of what JFAC does, **Mr. Barron** responded that there were reserved funds in the amount of \$300,000.

TESTIMONY:

Lynn Young, member of the volunteer American Association of Retired Persons (AARP) Idaho Executive Council, informed the committee that AARP is a non profit, non partisan organization representing 178,000 members, at age 50 and up. **Ms. Young** stated that AARP was in favor of **S 1053**, which would change the issuance of SNAP benefits from single day to multi-day that would occur over the course of ten days.

Dawn Phipps, Idaho resident, supported Idaho returning to standard issuance of SNAP benefits. She informed the committee that frustration is intense due to long lines at the grocery store at the first of the month, and the stigma attached to SNAP recipients is humiliating. She has suffered verbal abuse by fellow shoppers at grocery stores.

Senator Bock commented that at the first of the month, it is not only food stamp recipients, but also social security recipients and other groups who are paid at the first of the month. He asked how the process worked and how one gets identified. It was his understanding that the card looked like any other plastic card, and he wanted to understand how someone in the SNAP program is identified. He also inquired what would be different if the benefits were spread out over ten days rather than just on the first of the month.

Ms. Phipps replied that she did not know if she were identified specifically, but she did have a lot of groceries in her cart since the food was intended for the whole month. She furthered that the reason people go to the stores on the first of the month is because they are out of food, and has nothing to do with bad budgeting. She indicated that she felt a staggered issuance would alleviate some of the stress at the stores. **Ms. Phipps** stated that she works for the Attorney General's office, and when there was a potluck event, she found it difficult to bring something, but did so anyway. It is a similar circumstance when her son needs cookies for a school function.

Senator Hagedorn asked that if she started working for the state in January, and her last installment on SNAP was in May, was she not making enough money with the state to get off SNAP.

Ms. Phipps replied that when a person is approved for SNAP, it is for a six-month period. When she called the program to inform them about her job, her income was recalculated. It was determined that with her five months of income, she still qualified for SNAP. When her eligibility was checked in June, she no longer qualified.

TESTIMONY: **Darcy James**, a Boise resident and representative for the Idaho Interfaith Round Table Against Hunger (IIRAH). She indicated that the single day issuance prevents people from accessing foods for which they are entitled. For Idaho's poor, the single day issuance leaves them scrounging for whatever food may be left in the freezers, meat sections or on the shelf. Many poor do not have the choice to return to the store later in the month, and many do not have transportation. The food stamp program is supplemental only, and is not meant to last a full month. **Ms. James** furthered that for Idaho's food vendors, the single-day issuance creates chaos in some stores on the first of every month. It depletes their shelves of the most basic necessities, and stores in rural communities often run out of staples. People stuck in long lines at the grocery store cannot wait through the lines, abandon their grocery carts, and perishable food cannot be restocked. She presented a petition with 900 signatures, as well as letters from faith leaders, asking for the return of the staggered issuance of SNAP.

TESTIMONY: **Matt Wissel**, a farmer in Canyon County, and runs a fresh vegetable operation since 1989. He indicated that his main customers are Albertson's, Paul's, Win-Co, and, to an extent, Wal-Mart. He informed the committee that everything they grow is staggered planting, such as green beans, sweet corn and peppers. In the spring, they plant every week or every ten days, so that once harvesting begins, a crop of some nature is being harvested for an 80 day period, from mid-July through October. He informed the committee that he is unable to supply suppliers when a big order comes in because he is not a big operator. He loses business due to the demand during the first days of the month that he might have been able to handle over a little longer period of time. The surge that comes on the first four days of the month are a problem, which has become harder over the last few years.

Senator Lodge commented that the population in Canyon County has grown about 33 percent since 2000. She asked if the increased population has had an impact on Mr. Wissel's ability to get his produce to the markets.

Mr. Wissel responded that he was able to take care of the volume, but that he cannot do all of the volume in four days. The population growth has helped his business, but that there is a large portion of that population on food stamps.

TESTIMONY: **Stan Zatica**, with Paul's Markets, opposes **S 1053**. He is a member of the Northwest Grocers Association (NGA), and has been for three years. He employs about 500 employees, both full-time and part-time. **Mr. Zatica** stated he is able to handle the business volume at the first of the month, and challenged bigger grocers to do the same. He suggested that perhaps the grocery industry should be taxed from one-quarter percent to one percent on all sales on SNAP benefits to help fund the program.

TESTIMONY: **Dr. Gloria Totoricaguena** is a political scientist and sociologist, and researches public policy. She represented NGA. There are more than 960 members. There are over 1,050 locations in Washington, Oregon and Idaho. There are 103,000 employees in the \$30 billion industry. She informed the committee that SNAP is part of the U.S. Farm Bill and administered by the Department of Agriculture, with the goal of increasing consumption of agricultural products. Economists consider SNAP as one of the most effective forms of economic stimulus. **Dr. Totoricaguena** informed the committee that in 2009, the unsolicited change by Idaho's Health and Welfare from an established staggered day to a single day issuance affected the entire food chain, and created a logistical nightmare in the supply chain throughout the industry. Staggering out the benefits makes sense in order to keep shelves adequately stocked. Over \$900,000 of additional costs occur each year for overtime, benefits, waste, spoilage and inefficiency tied to the single day issuance.

Senator Schmidt asked about funding suggestions for these changes. **Dr. Totoricaguena** informed the committee that she and NGA do not agree with the costs that are given. She pointed out that it did not cost that amount to change the system from a staggered day to a single day issuance. She furthered that she and the NGA were willing to go forth with Representative Perry's suggestion of \$44,000 for a re-programming, and the \$115,000 needed for information, operation's changes, communications, and card embossers.

Senator Lodge asked if all SNAP recipients were receiving a paycheck at the first of the month instead of food stamp benefits, how would the stores handle that impact? **Dr. Totoricaguena** replied that if there were no such thing as food stamps, and everyone was coming in with a paycheck, she supposed a totally different business model would need to be created.

Senator Lodge then asked if Dr. Totoricaguena's organization would think about funding this change themselves. **Dr. Totoricaguena** stated that half of the cost is paid for by the federal government, and the other half is paid for by the state. She thought retailers would be willing to help with the educational and operational piece of it.

Senator Hagedorn stated that 14 percent of Idahoans are on the SNAP program, which means 86 percent are not. Most Idahoans get paid the first of the month or the middle of the month. Do we see an impact of those 86 percent in the stores that we see with the 14 percent, and if we don't, why is that? **Dr. Totoricaguena** replied that when we look at the econometrics and the numbers, and what percent of their salary is spent on foodstuffs and on nutrition, there are enough people making a higher salary that can stagger their purchases farther out into the month.

Representative Perry indicated that SNAP has an impact in a number of different ways that many of us never thought of. Many paydays land on the first of the month. Paydays are staggered throughout the month, and people who have more money than others can change the way that they purchase their food. But there is a certain group of people who have no choice and they are being funneled all into one day. It is difficult for the elderly and the handicapped to stand in those lines. We are swamping the distribution system. We need to consider this. The Idaho distributors cannot distribute enough food on one day. Sales then go to other producers in other states. That is lost tax revenue for this state.

She furthered that participants, or beneficiaries if we want to use that term, are not the only ones to consider in this decision. There are other beneficiaries and there are contributors. The contributors are the people who pay their tax dollars to fund the administrative portion of this, and the food stamp program is also funded at the federal level. The one part that people forget is that often times the beneficiaries are also the tax contributors. We tend to have a stereotype about the people who are on food stamps and think that means they are not employed, and that is not always true. Many people are employed; they are the working poor, and they are paying their taxes.

Representative Perry commended Dawn Phipps for her testimony. Many people are embarrassed to be on food stamps, let alone talk about it. Even if a person is not on food stamps, if they come to the stores at the first of the month and their carts are full, assumptions are made about them. Staggered issuance protects them in the public's eye and allows them a little dignity. She furthered that she has received emails from people who said they do not want to change it because they do not want to help those people on food stamps. She inquired if those are the kind of people we really want to be and to make comments like that. She did not believe we want to make policy based on comments like that, either. This issue is not about the food stamp program itself, but about being effective and efficient in our distribution system, how the food is getting to the stores and who is able to get their foods. It is long supply chain for food producers. It has been such an important issue that food producers actually took a vote on it, and decided they would be supportive of this. They see the impact on their food producers as well. This bill is widely supported.

Senator Bock stated he could see conflicting interests, but thought it should be sent to the floor for a vote of the full body.

MOTION: **Senator Bock** moved that **S 1053** be sent to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion.

DISCUSSION: **Senator Guthrie** commented that he owns a small grocery store in a town of about 800 people. He is a member of the Associated Food Stores, and we take SNAP benefit cards. His concern was no one has talked about coordinating with all the recipients of these benefits. A wait of up to ten additional days is problematic. He indicated that his store receives supplies once a week, and not every day. No one has talked about the small to mid-sized grocery stores. We cannot restock shelves every day or even every few days. We stock once a week, and that includes milk, produce and everything. No one is speaking the to the challenges that the smaller stores face, and we manage anyway. We ramp up for the first of the month and we do see a spike. He did not disagree with there being a problem. He had an idea of spreading out 25 percent of the benefits every week over a four-week period, and Representative Perry let him know the federal government does not allow that. He is not sure a ten-day staggering is going to solve the problem. If we need to apply to the federal government for a waiver where we can truly stagger the benefits on the 1st, 8th, 15th and 22nd. The concept is one that he would not be able to support, but applauds the effort.

Senator Guthrie continued that the cost is another issue that bothers him. He had been told that the state does not need legislation to go back to a staggered issuance.

Senator Hagedorn conveyed frustration with the fiscal note, and not being able to justify the costs. He was also frustrated with the fact that a bonus is given for accuracy and Outreach to get people on SNAP, but yet there is no bonus or incentive from the federal government to reduce fraud. He was equally frustrated that the federal government dictates how we handle SNAP in Idaho. He continued that there is a problem that needs to be addressed, with everyone crowding into stores at the first day of the month, which is a disservice to the beneficiaries, and to those not on SNAP. He wanted to make sure that Idaho doesn't pay for anything it doesn't need to, and send a message back to the federal government that incentives for anti-fraud should be just as available as incentives for Outreach. He indicated that he will support this for those reasons, but there is still a long way to go on this.

Senator Lodge explained that this is a problem that she has been working on since becoming a legislator. She felt that this is not what needs to be done at this time; there needs to be more discussion. She referred to Senator Guthrie's comments, and how small stores need to be considered. One part of this bill not addressed all that much is the name on the card, and what the name on the card is going to do. If they don't have time in the stores to check people out, how are they going to check identifications? She didn't see how this would curtail fraud. She voiced a scenario that if she were to purchase food for her disabled mother with her mother's card, how is an embossed card in that circumstance going to reduce fraud. She indicated that in her opinion, the ten-day distribution that is a problem. She stated that she would like to see it on the first and the fifteenth of the month so that it could be spread out to give people food throughout the month. She continued that she wants Idahoans to have proper food, that the grocery stores and farmers are not overburdened and losing business. She stressed that her concern is cost, and stated she would not be able to support this.

Senator Lodge furthered that the financial performance bonus funds could be used for fighting hunger issues in Idaho; cooking classes; nutrition classes; fighting homelessness; technology upgrades for the program; lobby remodels to accommodate the increase in the number of families needing help; staff training; staff overtime; financial education (stretching food dollars); fighting fraud; work services; electronic verification interfaces; implementing federal mandates; and behavioral health crisis intervention. We don't have enough money to fund our mental health issues or education. She stated she would prefer a substitute motion to hold this in committee to work with Representative Perry, Senator Guthrie and hunger groups, and put together an educational program that will help people.

**SUBSTITUTE
MOTION:**

Senator Lodge moved that **S 1053** be held in committee. **Vice Chairman** seconded the motion.

DISCUSSION:

Vice Chairman Nuxoll stated that she wanted to change this program. She indicated she is from a rural area, and local, rural grocers need a staggered program. If the program is staggered over the month, rural stores can have supplies shipped in every week to accommodate demand.

Senator Lakey stated this issue is frustrating. He agreed with Senator Hagedorn on the matter. As it was described, a large diverse group of people got together to come up with a solution. The cost is frustrating. The initial start-up costs are a concern. He indicated that he liked the anti-fraud efforts. But he felt this was an impact on a diverse group of people and business: growers, distributors, grocers, and individuals participating in the program. He thought the decision a few years ago was probably a good one, based on the circumstances being faced. But maybe all the impacts were not understood. He would be in favor of the initial motion, and not the substitute motion.

Vice Chairman Nuxoll stated that she now understands, if she is correct, that the federal government will not permit staggering over a month, and wished to withdraw her second on the substitute motion. **Senator Guthrie** seconded the substitute motion. He also commented that Senator Lodge mentioned financial education in stretching the food dollars, he wondered why we had this effort to ensure everyone is treated equal and we are selective with that. If everyone else can adapt and change when they shop, why couldn't some of the education money be used to encourage those recipients to shop differently than the first of the month. He thought there were some educational opportunities.

**ROLL CALL
VOTE:**

Chairman Heider called for a roll call vote on the substitute motion. **Senator Lodge** and **Senator Guthrie** voted aye. **Chairman Heider**, **Vice Chairman Nuxoll**, **Senator Hagedorn**, **Senator Martin**, **Senator Lakey**, **Senator Bock** and **Senator Schmidt** voted nay. The substitute motion failed.

**ROLL CALL
VOTE:**

Chairman Heider called for a roll call vote on the original motion that **S 1053** be sent to the floor with a **do pass** recommendation. **Chairman Heider, Vice Chairman Nuxoll, Senator Hagedorn, Senator Martin, Senator Lakey, Senator Bock** and **Senator Schmidt** voted aye. **Senator Lodge** and **Senator Guthrie** voted nay. The motion carried. **Chairman Heider** will carry on the floor.

Chairman Heider thanked everyone for their attendance.

ADJOURNED:

There being no further business before the committee, **Chairman Heider** adjourned the meeting at 5:00 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, February 20, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>RS22033</u>	UNANIMOUS CONSENT REQUEST that RS 22033 (relating to Grounds for Medical Discipline by the State Board of Medicine) be printed by a privileged committee (Judiciary and Rules) and send back to Health and Welfare for further reading and consideration	
<u>S1063</u>	Medical Consent and Natural Death Act	Ken McClure
<u>H89</u>	Relating to the Physician Assistant Advisory Committee	Nancy Kerr, Executive Director, Board of Medicine
Presentation	Relating to the Medicaid and Welfare Fraud	Steve Bellomy, Bureau Chief of Audit and Investigations, Department of Health and Welfare

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Kenyon(Martin)
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 20, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

ABSENT/
EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

convened: **Chairman Heider** called the meeting to order at 3:00 p.m. and welcomed the audience. He asked the secretary to take a silent roll.

RS 22033 **Chairman Heider** announced that the first item on the agenda is a unanimous consent request that **RS 22033** (relating to Grounds for Medical Discipline by the State Board of Medicine) be printed by a privileged committee (Judiciary and Rules) and sent back to Health and Welfare for further reading and consideration. **Senator Lodge** asked if the committee needed to see the SOP before they voted. **Chairman Heider** responded that was correct, he then tabled **RS 22033**.

S 1063 **Ken McClure**, an attorney for the Idaho Medical Association, presented **S 1063**, relating to Medical Consent and the Natural Death Act. **Mr. McClure** stated that **S 1063** is a bill designed to address an ambiguity in a statute, S 1348, passed last year. That bill was passed late in the session and involved some controversy and several amendments. He stated that last summer, a hospital attorney expressed concern over the scope of a provision regarding advanced directives, which may be broader than intended. An advanced directive is a living will, which is a decision over personal treatment or a Do Not Resuscitate (DNR).

Mr. McClure stated that an advance directive kicks in when the patient becomes unable to speak for himself or herself. In fact, the DNR and a living will pertain to the time when a patient is in a persistent vegetative state. He stated that S 1348 was relating to end of life issues only. One of the last amendments to the legislation included provisions regarding patient surrogates, who are people who can speak for the patient when the patient cannot speak for himself or herself. That may involve situations that are not end of life, but rather circumstances where the patient is not mentally or legally competent or are not conscious. Therefore, where the legislation states healthcare cannot be withdrawn against the wishes of the patient, there is concern that the hospital may have to provide any services the patient surrogate demands. The hospital attorney was concerned about the obligations of the hospital in some situations such as: Would they be required to give organ transplants to patients who are about to die of cancer? Would they be required to perform surgery when the patient, in their medical assessment, is not strong enough to undergo surgery?

Mr. McClure stated that was not the intent of the legislation, but it could be read that way. What **S 1063** deals with is advanced directives. When someone fills out a living will, they must check a box. One box says they want everything humanly possible done to keep them alive; the next box says only provide food and water; and the third box says don't do anything. Therefore, **S 1063** deals with the situation when people check the box that says they want hospitals to do everything medically possible to keep them alive. He asked at what point should medical professionals stop trying.

Mr. McClure likened this to giving CPR to a patient whose heart has failed in that you can't do CPR for a week just to keep the patient alive as long as possible. There comes a time when medical professionals have done all they can. The same types of things happen in other forms of medical care. This bill is designed to say that when a patient indicates they want everything done to keep them alive, hospitals should do everything they can to sustain their life and keep them comfortable, but they do not have to give them unnecessary or inappropriate medical care. **Mr. McClure** offered to go through the bill in more detail. He stated that he believes it is a relatively straightforward fix to an ambiguity. He stated he has discussed this with everyone involved in the previous year's legislation and he is not aware of any objections.

Senator Bock stated that he doesn't see why this language is necessary. He said it troubles him the later part of the amended sentence makes reference to code sections in Idaho Code that lay out specific language for these directives. **Mr. McClure** responded by referencing the codes. He stated that Section 39-4503 is the provision that allows for living wills, 39-4510 is for Physician Order for Scope of Treatment (POST) provisions, and 39-4504 is the information that deals with surrogacy, and that's the problem. A surrogate is someone who is nominated by statute to have the authority to speak for a patient when the patient is unable to speak for himself or herself. A surrogate's authority is not directed or limited by a form.

Chairman Heider read from line 28 in **S 1063**, "Health care necessary to sustain life," and asked what the definition is of necessary to sustain life. **Mr. McClure** responded that it is defined more by what is isn't than what it is. Unnecessary health care that will not keep a patient alive longer does not need to be provided. If a patient indicates on their living will that they want everything done to sustain their life, it is the patient's right to determine the extent of the care they want. Hospitals then must do everything necessary to keep them alive as long as possible, but do not have to give them care that will not sustain their life or that is unrelated to keeping them alive. The hospitals need this clarification in order to ensure they don't have to do things like give heart transplants to patients who are dying of cancer when the patient will very likely not survive a heart transplant surgery.

Senator Hagedorn asked if the options or boxes on the living will form are described to the patient at the time. If a patient chooses to have everything medically possible done, do they understand the limitations, or do they think that every available doctor will be around them until they die. **Mr. McClure** responded that the form is written in simple prose and he hopes the patient understands the choices. He stated that he has walked many clients through the form and has never seen a client confused about the choices. Most people are going to be relatively well informed, particularly if they help. These forms are relatively straightforward, but they are sold in legal form shops and given out for people to do on their own, but he is not sure how fully those people understand the content.

Senator Hagedorn expressed concern that this bill creates a limit to the extent of health care someone receives. If a person has the expectation, even an unreasonable one which may be a result of poor consultation, that extreme measures will be taken to keep them alive, then setting a limit may get them in trouble. **Mr. McClure** responded that if setting a limit gets them in trouble, then they are already in trouble because that is already the law. He is trying to say that there is other care you don't get. He stated most people recognize there will come a time when everything that can be done has been done and they will die. He stated that most people are more comfortable with making end of life decisions for themselves than for their loved ones.

MOTION: **Senator Bock** moved that **S 1063** be sent to the floor with a **do pass** recommendation. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**. Vice Chairman Nuxoll will carry **S 1063** on the floor.

H 89 **Nancy Kerr**, Executive Director, Board of Medicine, presented **H 89** relating the Physician Assistant Advisory Committee. **Ms. Kerr** stated that **H 89** changes references in Idaho Code § 54-1807A to allow members of the Physician Assistant Advisory Committee to opt out of the Public Employee Retirement System of Idaho (PERSI) by changing code references for committee members from compensation to honorarium. Committee members receive \$50 a day for up to four meetings per year. This small amount may exclude them from private retirement plans or affect their ability to take tax reductions from private retirement plans such as Individual Retirement Accounts. **H 89** removes unintended penalties for serving on the Idaho Board of Medicine, Physician Assistant Advisory Committee.

Senator Lakey asked if there are other boards and commissions that have the ability to opt out of PERSI. **Ms. Kerr** responded yes, there are, and this board is the only one that doesn't have that ability.

MOTION: **Senator Lodge** made the motion to send **H 89** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Lodge will carry **H 89** on the floor.

PRESENTATION: **Steve Bellomy**, Bureau Chief of Audit and Investigations, Department of Health and Welfare, presented Medicaid and Welfare Fraud. First, he introduced the leadership team for the Bureau of Audit and Investigations (Bureau). Dave Taylor is the Deputy Director of Support and the direct supervisor. Fernando Castro is the supervisor of the Criminal History Unit. Brandon Weber is the supervisor of the Internal Audit Unit. Lori Stiles is the supervisor of the Welfare Fraud Investigations Unit. **Mr. Bellomy** stated that he will focus first on the Medicaid Program Integrity Unit and then close with the Welfare Fraud Investigations Unit. The two units share program integrity responsibility.

The Medicaid Program Integrity Unit audits and investigates only Medicaid providers, while the Welfare Fraud Investigation Unit audits and investigates the remaining public assistance providers and all clients. The program integrity staff are located in three offices, most of which are in Boise. He stated it is important to understand that the Medicaid Program Integrity Unit is but one part of a very large and complex integrity effort within the whole Medicaid program. The Division of Medicaid handles both pre- and post-payment activities, while the Medicaid Program Integrity Unit and other partners handle post payment audits, administrative actions, and criminal actions.

In the 2011 session, H 657 authorized the expansion of the Medicaid Program Integrity Unit, essentially doubling the staff, by adding eight analysts. H 260 required us to track this investment. He stated they are pleased to share that the new staff is learning quickly and their overall productivity continues to increase over time. They finished the last quarter identifying \$1.4 million in unauthorized payments and have already exceeded last year's entire amount. Meanwhile, the amount of pending overpayments continues to climb. He referenced his slide presentation and stated these are the cases that they have completed, but are under appeal or awaiting the end of appeal rights. In the end, identifying overpayments is only as good as what they can collect. While receipts are growing, they are also lagging behind what they identify.

In many larger cases, they agree to recoup payments over a two year period. They will never collect some; however, when an entity closes or they terminate them administratively, the balance of amounts receivable continues to climb. **Mr. Bellomy** referenced his slide and stated these numbers are net of the amounts they write off due to closure or bankruptcy. In the first year by the fourth quarter, the unit had recovered more than total costs. So far in 2013, their recoveries have more than doubled their cost. He stated that probably the hardest thing to measure is the effect that enforcement has on compliance overall.

After a three year effort focused on some problems in one area of medical services, they were able to see a decline in billing abuse that has resulted in an overall reduction of claims for this one category. This was a very thorough effort that continues today. They have hired a Recovery Audit Contractor that will specialize in hospital billings, durable medical supplies, and medical services in schools. They continue to work with the federally chartered Medicaid Integrity Contractors and their special studies. They continue to their efforts to improve staff training and productivity. They are poised to begin data mining to expand their leads and they are exploring federal funding to enhance their tools. They continue to look for ways to improve outreach to providers.

Their challenges are many; but with each, they find opportunities:

- The rapid expansion created a bigger learning curve than anticipated but they continue to gather speed
- Data analysis techniques in the industry have improved over the last three years and they are just now able to begin using data for mining. They will need to improve their analytical tools to achieve best practices.
- Migration to managed care has resulted in many integrity issues in other states, and they are working closely with the Medicaid Division to make sure it works properly in Idaho.
- They continue to struggle collecting bad debts and complying with those federal rules.
- They are aware that Electronic Records have created more opportunities for waste and abuse and they are actively pursuing that issue.

Mr. Bellomy moved on to the Welfare Fraud Investigation Unit. This unit is responsible for handling all client investigations for all programs and all provider investigations that are not Medicaid Providers. Last year, they had eight field investigators deployed in the seven regions. However, they have restructured the organization to take advantage of workload and to specialize. They have four additional positions as part of a decision unit that was supported by the Governor. They anticipate that additional revenue from restructuring will fully fund these new positions.

Just as in the Medicaid Unit, the Welfare Unit also works with many other partners to improve what they do. They touch many different programs for both clients and providers. The most common client programs are food stamps, Medicaid, child care, cash assistance, energy assistance, women, infants and children. The most common providers programs are food stamp retailers, child care providers, and energy assistance providers.

They touch many different programs for both clients and providers, and the most common are: all department programs (electronic benefits, eligibility, vital statistics, welfare programs), local law enforcement, county prosecutors, state agencies (Department of Insurance, Occupational Licensing, Department of Employment, etc.), Office of Inspector General - food stamps, Federal Food Stamp Retailer Compliance providers. He stated that if he were to sum up their current status in one word, it would be opportunity. They have made a significant structural change that has allowed them to improve productivity, sustain growth, and identify more suspect cases through data analysis. Historically, they have relied on internal referrals and public complaints to identify their cases.

Starting in fiscal year (FY) 2010, they changed that by adding data analysis and the result has far exceeded their expectations. They anticipate that they will identify more than 10,000 potential leads through data analysis by the end of this fiscal year. They have improved quickly to adapt to the new reality that there are many more leads than they can possibly investigate. Their productivity has grown by an average of 32 percent since FY 2006. They lost one position due to holdbacks. They are only just now able to recover that position through the additional receipts they generate by their reorganization and improved productivity. However, the gap continues to grow as they are discovering potential cases faster than they can implement changes to handle them. The specialization will help them make big improvements.

Probably the best example of this is the creation of the new desk review position. This position was tested successfully for two years so they took a risk to hire one full time analyst. In their very first month on the job, the analyst closed nine times the number of cases as the average field investigator, and the overpayments associated with these cases are much more collectable than traditional cases. Also, the provider specialist has proven to be very productive and is covering their cost. For example, in the child care program, they have already tripled the amount of overpayments collected in the first six months, compared to last year and have collected nearly \$11,000 in penalties.

In the past, there was never an expectation for the Welfare Fraud Unit to recover costs, because recovery is very difficult. However, they have improved their efforts significantly over the past few years and they believe that will change this year. This fiscal year, they anticipate recovering more than their cost for the first time. In closing, they have come a long way and they believe that their journey has just started. They have a lot of challenges ahead, but even more opportunities. **Mr. Bellomy** stated he knows this information has been at a very high level but they are willing to meet with members of the committee to look at this information in more depth.

Senator Lakey thanked Mr. Bellomy for his presentation and his work. He inquired about slide pages 10 and 9, regarding amounts collected and received. He asked if that shows there is \$4 million in fraud that cannot be collected. **Mr. Bellomy** responded that was correct. **Senator Lakey** asked why they couldn't collect that money. **Mr. Bellomy** responded that often they deal with entities that have decided to close or are in bankruptcy, others are in an extended payment agreement, and others are still trying to determine if they are going to file for bankruptcy, dissolve, reorganize, or negotiate for repayment.

Senator Lakey inquired what kinds of common themes they find during data analysis, looking at potential fraud, and what they are they doing to prevent those common themes. **Mr. Bellomy** responded that the programs are very sensitive to what needs to be done up front to determine eligibility and process claims and to make sure the programs are as safe as possible. However, those in business know that losses due to shrinkage are typically around 5 percent and their programs are far less than that. He stated their programs do a good job at establishing controls and making sure claims are paid out only to legitimate medical claims. As far as what more can be done, they are doing the things they need to be doing from a post-payment standpoint, but there are opportunities. They can't make changes too fast, but are beginning to establish improvements with more staff.

Senator Lakey inquired about the meaning of the term post-payment standpoint, if that meant analyzing what has been happening in particular areas to try to determine where there is fraud. **Mr. Bellomy** responded that was correct. It means that the claim has been made, the payment has been issued, and the benefit has been provided to the client. **Senator Lakey** stated that it is good that effort is being made to recover fraudulent claims, but he would like to see some tracking done regarding those that are successful at committing fraud in order to look at opportunities to prevent it from occurring. **Mr. Bellomy** responded that they do look at that and they work very closely with their programs; they give them quarterly reports about the issues they find. The programs are pretty reactive. For example, in the area of household income, looking at the verifications of that income from their banks, they found inconsistencies which they related to the program and they responded by becoming more suspect of that information. **Senator Lakey** stated that he would like continued updates about those kinds of preventative measures.

Senator Schmidt inquired about slide 12, and asked what the blue bars in the graph represent. **Mr. Bellomy** responded that the point is that when they are active in particular provider areas, the abuse in that area is reduced. The graph shows one such example that they tracked for several years. **Senator Schmidt** asked if the blue bars reflect claims, and by paying attention to those claims, they went down. He asked if this was meant to show that there was a reduction in fraud. **Mr. Bellomy** responded that there was some indication of errors and abuse.

Senator Schmidt asked if there was a expected ratio of investigations to claims or a professional standard as to how much should be spent on investigating claims. **Mr. Bellomy** responded that he doesn't actually know, they have looked at some neighboring states and commercial partners, and they find they are fairly well-staffed. He stated that he sees this as an opportunity cost; if they think their efforts will provide a greater return to the taxpayers, then that's where they should go. **Senator Schmidt** inquired if changes in eligibility processes for welfare will affect their fraud investigations. **Mr. Bellomy** responded that any changes in the eligibility requirements create a learning curve for them, but they are aware of them and he doesn't think it will change the nature of the investigations.

Senator Guthrie commented that he understands there is a range of fraud activity and inquired if the sanctions are appropriate to the different types of fraud. He also asked how aggressive do they get when going after monies owed. **Mr. Bellomy** responded that there is a range of fraud and a corresponding range of sanctions. Sometimes there are errors and sometimes there is actual fraud. In the case of errors, if they are not substantially large or repeated offenses, such as billing improperly, then they can recover the overpayment and assess a penalty. In the cases of intentional fraud, when they can gather evidence of the crime, they hand that information over to the Attorney General for criminal prosecution. They have a good relationship with the Attorney General and give them most of their good complaints, which lead to successful prosecution. They also work with U.S. Attorney. Their efforts often lead to collection of overpaid claims and penalties.

ADJOURNED: **Chairman Heider** thanked Mr. Bellomy for his presentation and his efforts to recover millions for the taxpayers of Idaho. There being no further business at this time, **Chairman Heider** adjourned the meeting at 3:45 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 25, 2013

SUBJECT	DESCRIPTION	PRESENTER
Hearing	Confirmation Hearing of Suzanne Budge for the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 30, 2012 and expiring March 6, 2015.	Suzanne Budge
Hearing	Confirmation Hearing of Mark VonLindern for the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 30, 2012 and expiring March 6, 2015.	Mark VonLindern

PENDING RULES
BOARD OF PHARMACY

Docket No: 27-0101-1205	Rules of the Idaho State Board of Pharmacy (fee rule)	Mark Johnston, Executive Director, Idaho Board of Pharmacy
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If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 25, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 3:10 p.m. and welcomed the audience. He asked the secretary to take a silent roll. He announced first on the agenda is the confirmation hearing of Suzanne Budge to the Hazardous Waste Facility Siting License Application Review Panel for a term commencing March 30, 2012 and ending March 30, 2016.

HEARING: **Suzanne Budge** stated she is a re-appointee and that this is her third term. She stated this panel is one of the best boards to be on because they rarely, if ever, meet. They have only met about twice in all the years she has been on it. It only meets when there is a hazardous facility siting license request through the Department of Environmental Quality. She thought she was going to be term limited out, but they found a way to re-appoint her because they couldn't find another geologist. She stated she is from Soda Springs, Idaho. She went to Utah State for her undergraduate degree in geology; she then attended University of Idaho-BSU program and BYU-Utah State. She did her graduate work in geology through Colorado School of Mines. She spent some time in the mining business for the U.S. Geological Survey as well as the oil and gas business. She came to Boise in 1989, after doing a brief stint at Idaho National Laboratory working in their hazardous waste program. She then began doing government affairs work.

Senator Schmidt stated that he had reviewed her client list and asked if she felt there is a conflict of interest with any of her clients, particularly Thompson Creek Mining. **Ms. Budge** stated there haven't been any conflicts of interest; the board so far has only reviewed two applications relating to Idaho National Engineering and Environmental Laboratory. She stated she does not have any clients in the hazardous waste business, so there shouldn't be any problems in the future; but if there was one, she would recuse herself.

Chairman Heider thanked Ms. Budge for her service on the board. He announced next on the agenda was the confirmation hearing Mark P. VonLindern to the Hazardous Waste Facility Siting License Application Review Panel.

HEARING:

Mark P. VonLindern thanked the committee for the opportunity to be considered for reappointment. He stated he has served on the board since it was first established. He went to the University of Idaho. He is a licensed engineer in the State of Idaho. He worked as a public works director in the Idaho Division of Environmental Quality as the Division Two Director for about five years. He worked in the public sector. He has worked at ATK in Lewiston for the last twenty five years. He believes he has a broad background in hazardous waste in Idaho as well as technical experience. He stated he is looking forward to continuing his service on this board. He also serves as the Vice Chairman on the Clearwater Basin Advisory Group for the Department of Environmental Quality. He likes having the opportunity to give back to the community and ATK supports this as well.

Chairman Heider inquired if Mr. VonLindern was happy being on the board. **Mr. VonLindern** responded that he was. It has been easy work, but it is an important issue. Through his current job at ATK, he oversees a number of large scale manufacturing operations in different states and understands the pros and cons of environmental regulation. He stated the community doesn't want to see Idaho become the nation's repository for nuclear waste, but it does have a place here. As long as we continue to manage it well, we can be responsible stewards. **Chairman Heider** commented on photos he has seen in the past of irresponsible dumping of hazardous waste. He asked if he and Ms. Budge were involved in bringing an end to that. **Mr. VonLindern** responded that he was aware of the history and said that the industry has come a long way.

Senator Hagedorn inquired if Mr. VonLindern perceives environmental rules getting stricter during the time he has spent in the industry and how has regulation affected ATK. He asked if regulators become easier to work with. **Mr. VonLindern** responded that his background working for the Idaho Department of Environmental Quality and with the Environmental Protection Agency in the 1980 when environmental regulations were just starting to gain traction, and now working on the side of regulated industry has been interesting. He stated that in the beginning, the regulations were so broad that regulators didn't have a very good understanding of them. In his experience, over the last five or ten years, they have become much better at working with industry. Companies are given more of an opportunity to be in compliance. In Idaho, there seems to be more common sense in the application of environmental regulation than in other states like California. Industry seems to recognize this and take this into consideration when determining locations for their facilities.

Chairman Heider thanked Mr. VonLindern and stated that the committee will vote on his confirmation on the following day.

**PASSED THE
GAVEL:**

Chairman Heider announced the next item on the agenda was a pending fee rules. He passed the gavel to **Vice Chairman Nuxoll**, who then called upon Mark Johnson to present the fee Rule.

**DOCKET NO.
27-0101-1205**

Mark Johnston, Executive Director of the Idaho Board of Pharmacy (Board), stated that he was before the committee to ask approval of **Docket No. 27-0101-1205**, which began on page 52 of the Pending Fee Rules Review Book. These rules are brought forward pursuant to the passing of H 17, as discussed during the committee hearing for said bill.

The Board printed two notices of intent to promulgate rules in the Idaho Administrative Bulletin, took testimony at three public Board meetings, conducted months of negotiation, and received eleven pieces of public comment on this topic just during the 21 day public comment period last October.

As with H 17, Idaho State Pharmacy Association, Idaho Retailers Association, Idaho Society of Health-System Pharmacists, large mail service pharmacies/pharmacy benefit managers (such as Medco, Express Scripts and OptumRx) and cognitive service companies (such as PipelineRx) are supportive of this docket. **Mr. Johnston** was aware of no opposition to it, and it took a long time to get to this position.

While this is considered a fee Rule, this docket contains the same fees already approved in H 17. As many of the new terms used in statute are also used in Rule, many exact definition changes from H 17 appear in this docket as well. New pending Rule 29 (on page 64) concisely reiterates the pharmacist licensure and registration parameters approved in H 17. New pending Rules 35 (on page 65) and 73 (on page 66) take existing statutory registration application parameters that H 17 struck and places them into Rule, where they are more appropriately located. The following changes only exist in Rule, and the Board believes these to be extremely important.

Current Rule 650 and 651 (pages 69-71) were promulgated as required in 2009 by the series of legislative changes run by the Idaho Hospital Association and regulate the practice of telepharmacy across state lines...for the two facilities that are currently registered as such. As we expand the practice of pharmacy into Idaho with H 17, most of these rules have been struck and moved into new pending Rule 610 (on page 68). Although Rule 610 appears to be new, it contains just a few substantive changes as it transitions from the combination of Rules 650 and 651. For example, a private, encrypted connection between the two facilities was added, and as H 17 allows such practice from home offices, this docket requires a secured area that is restricted to authorized personnel.

Current Rule 320 (page 67) allows an Idaho licensed pharmacist to practice pharmacy outside of a pharmacy if a few basic parameters are followed, such as if the pharmacist makes a decision, he should ensure that he has enough information to actually make the decision and then document the decision. Also, as private health information is no longer within the confines of the pharmacy, extra care should be taken to protect such information. Rule 320 was developed to allow pharmacists to provide cognitive services at health fairs, brown bag events at senior centers whereby citizens bring in their various vials of drugs to be evaluated for overlap, etc., or even counseling a person at the kitchen table. This "independent practice of pharmacy," independent from practicing within a pharmacy, is currently allowed across state lines so that a pharmacy owner or hospital pharmacist, for example, who is on vacation out-of-state, may practice pharmacy back into Idaho, if called by their respective pharmacy. However, Rule 320 has been used as justification for out-of-state companies to license their pharmacists in Idaho and then start practicing pharmacy on a wide-scale basis into Idaho, not being subject to rules that are intended to regulate this activity, which is termed "centralized pharmacy services."

For example, current Rule 650 and 651, which transition to pending Rule 640, require written contracts, mandatory training, appropriate communications between the facilities, secure common electronic files, continuous quality improvement programs, audit trail documentation, and policy and procedure manuals. Currently, out-of-state, but Idaho-licensed pharmacists are practicing pharmacy into Idaho without following any of these provisions, simply by following the independent practice of pharmacy Rule that was not intended for this wide-scale purpose.

Pending changes to 640 clearly state that when a pharmacy centralizes services to another, the services must be performed from a pharmacy, central drug outlet (such as a secure business office in a strip mall) or from a remote office location, such as a home office (and not from a Starbucks, for example), and all of the requirements of 640, just listed, must be followed. Changes to 320 clearly state that centralized pharmacy services may not be performed under the guise of the independent practice of pharmacy's minimal regulation, intended only to regulate the practice of pharmacy at simple functions, such as health fairs. It is this important distinction that makes this docket important enough to be brought on the heels of H 17, which expands the practice of pharmacy into Idaho, not waiting to promulgate until 2014.

Senator Hagedorn commented that H 17 has not yet been signed into law by the Governor. If the Governor does sign it, it doesn't go into effect until July 1, because there is no emergency clause. He asked what of this Rule has the effect of H 17 that they might be approving. **Mr. VonLindern** responded it was his understanding that a Rule cannot exist without statutory authority, therefore, anything written in this Rule that does not have statutory authority could not be enforced until H 17 goes into effect. It is their intent to not enforce much of this Rule until July 1. He stated their renewal period ends on June 30, and that it is important to wait until July 1 because it gives them time to rework their software in order to be able to enforce the Rule.

Senator Bock inquired as to the legal ramifications of approving the Rule without legal authority to adopt the Rule. **Mr. Johnston** deferred to Dennis Stevenson, Administrative Rules Coordinator. **Mr. Stevenson** stated this is a pending fee Rule, so it must be appropriately approved by concurrent resolution. Statute also dictates that the Rule becomes effective on the date the concurrent resolution is adopted or the date specified in that concurrent resolution. Therefore, some parameters could be placed on the Rule by specifying that it cannot go into effect until July 1. In that case, if H 17 does not go into effect, the Board could rescind the portions of this Rule that do not comply with statute.

Chairman Heider asked if this rule is approved and H 17 does not go into effect, does the Rule then revert back to their original content? **Mr. Stevenson** responded no, a Rule cannot revert back. He stated the agency would have to rescind the Rule and bring forward another Rule change in the next legislative session in order to make the correction.

Senator Bock asked if they approve the Rule, could the resolution then be modified to go into effect on July 1, which would get around the issue of essentially approving a rule without the rule having statutory authority? **Mr. Stevenson** responded that was correct; normally an agency would specify that the Rule would go into effect on a day other than the adoption date of the resolution. It is correct that they would have to put into the resolution the date the Rule should go into effect if they want it to be other than the adoption day of the resolution.

Senator Hagedorn commented that this was the first time he has seen a rule come out so quickly after a bill, even before the Governor could sign it. He asked if the committee was being premature in considering approving this rule and if it would be prudent to hold off on it for a few weeks until after H 17 has been passed into law. **Mr. Stevenson** responded that generally he does not advise agencies to write a rule before statutory authority exists for that rule because that can be problematic. The committee certainly has the authority to not approve the rule; however, if they do approve the rule and it does not have statutory authority, the agency cannot enforce the rule. **Senator Hagedorn** asked if they take no action on the rule, would there then be a temporary rule in place until they can consider it during the next session? If that happened, could the agency collect the fees associated with this rule prior to July 1? **Mr. Stevenson** responded that was correct; the agency

could develop a temporary rule and that rule, if H 17 was passed, would meet the criteria for such a rule.

MOTION: **Senator Bock** moved to approve **Docket No. 27-0101-1205**, provided that the concurrent resolution specifies that the rule is in effect July 1, 2013. **Senator Schmidt** seconded the motion.

SUBSTITUTE MOTION: **Senator Hagedorn** moved that **Docket No. 27-0101-1205** be held until the gentlemen on the second floor take action. **Senator Martin** seconded the motion.

DISCUSSION: **Senator Guthrie** asked what the outcome would be to the rule if the Governor were not to sign H 17. **Mr. Stevenson** responded this pending fee Rule must be affirmatively approved; if no action is taken, it dies.

Senator Martin commented that H 17 passed the Senate floor. The Governor doesn't always pass their legislative ideas, but this bill was passed unanimously on both the House and Senate floor; therefore, the chance that the Governor would not sign it was extremely minimal.

Senator Bock asked Mr. Stevenson what the simplest course of action would be for the agency. **Mr. Stevenson** responded that he could manage any course; however, it would be simplest to approve the Rule. Either way, they would be forced into rulemaking again.

ROLL CALL VOTE: **Vice Chairman Nuxoll** called for a vote on the substitute motion to hold **Docket No. 27-0101-1205** until the gentlemen on the second floor sign H 17. **Vice Chairman Nuxoll** and **Senators Hagedorn, Martin** and **Lahey** voted aye. **Chairman Heider** and **Senators Guthrie, Bock** and **Schmidt** voted nay. Senator Lodge was excused prior to the roll call vote. The motion failed.

Vice Chairman Nuxoll then called for a vote on the original motion by **Senator Bock**, seconded by **Senator Schmidt** to approve **Docket No. 27-0101-1205**. The motion carried.

PASSED THE GAVEL: Vice Chairman Nuxoll passed the gavel to Chairman Heider.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 3:45 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, February 26, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes of the January 21, 2013 meeting	Senators Bock and Martin
Minutes Approval	Approval of Minutes of the January 23, 2013 meeting	Senators Bock and Martin
Minutes Approval	Approval of Minutes of the January 31, 2013 meeting	Senators Martin and Schmidt
Minutes Approval	Approval of Minutes of the February 11, 2013 meeting	Senators Hagedorn and Schmidt
Hearing	Confirmation Hearing of Wendy Jaquet for the State Board of Health to serve a term commencing January 31, 2013 and expiring January 1, 2017.	Wendy Jaquet
<u>RS22033</u>	UNANIMOUS CONSENT REQUEST that RS 22033 (relating to Grounds for Medical Discipline by the State Board of Medicine) be printed by a privileged committee (Judiciary and Rules) and send back to Health and Welfare for further reading and consideration	Senator Schmidt
Vote	Committee consideration of the Gubernatorial appointment of Mark P. VonLindern to the Hazardous Waste Facility Siting License Application Review Panel	
Vote	Committee consideration of the Gubernatorial appointment of Suzanne Budge to the Hazardous Waste Facility Siting License Application Review Panel	
<u>S1114</u>	Relating to Behavioral Health Services	Ross Edmunds, Behavioral Health Administrator, Department of Health and Welfare

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 26, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:01 p.m.

MINUTES: **Chairman Heider** said the committee would begin with minutes approvals.

MOTION: **Senator Bock** moved to approve the January 21, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

MOTION: **Senator Martin** moved to approve the January 23, 2013 minutes as written. The motion was seconded by **Senator Bock**. The motion carried by **voice vote**.

MOTION: **Senator Martin** moved to approve the January 31, 2013 minutes as written. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

MOTION: **Senator Hagedorn** moved to approve the February 11, 2013 minutes as written. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

CONFIRMATION HEARING: **Chairman Heider** said it was a privilege to have a confirmation hearing for Wendy Jaquet, who recently retired from the Idaho House of Representatives, to the State Board of Health and Welfare to serve a term commencing January 31, 2013 and expiring January 1, 2017.

Ms. Jaquet thanked "the gentleman on the second floor" (Governor Otter) for the appointment, pending the committee's confirmation; thanked the committee for putting the confirmation hearing on the agenda; and talked about her background, which included family and personal dealings with health issues. (See Attachment 5.)

DISCUSSION: **Senator Schmidt** asked where the board meets. **Ms. Jaquet** said board members normally meet in Boise; they meet quarterly; and they can meet on special notice – within 72 hours. There are seven people on the board that are appointed by the governor and then four others, such as Chairman Heider, who serve on the board. **Senator Bock** asked for a summary of Ms. Jaquet's legislative record and experience. **Ms. Jaquet** said she was elected in 1994 and listed some of the committees she served on. (See Attachment 5.) **Chairman Heider** said it was important that the committee recognize that Ms. Jaquet previously served on the Joint Finance-Appropriations Committee (JFAC), had been a tremendous help to the legislature while serving there and had worked on the Health and Welfare budget. **Chairman Heider** asked Ms. Jaquet about her current employment. **Ms. Jaquet** said she volunteers, helps with tours

and works with several boards and committees, but does not have a typical 40-hours-a-week job. **Chairman Heider** said Ms. Jaquet would have plenty of opportunity to serve her appointment. **Ms. Jaquet** agreed. **Vice Chairman Nuxoll** asked what types of decisions the State Board of Health and Welfare makes. **Ms. Jaquet** said there are three components of the job description: approve rules and standards that are prepared, once legislation has been passed, to make the Health and Welfare Department work sufficiently; listen to cases that come before them on appeal – if they are not resolved they move on to district court; and approve director's managers, sub-directors, deputy directors. **Senator Lodge** thanked Ms. Jaquet and said, with all her experience, she will be an asset to the Health and Welfare Department and to the board. **Ms. Jaquet** said thank you.

Chairman Heider asked if anyone else in the audience who would like to speak to Ms. Jaquet's appointment.

TESTIMONY:

Senator Michelle Stennett said she adored Ms. Jaquet and has had a long relationship with her – through work and friendship. **Senator Stennett** said she strongly recommended Ms. Jaquet's appointment.

Chairman Heider said the Senate Health and Welfare Committee will vote on Ms. Jaquet's gubernatorial appointment at the following committee meeting.

RS 22033

Chairman Heider said **RS 22033** needed a unanimous consent from the committee in order for it to be sent to the Senate Judiciary and Rules Committee. **Chairman Heider** asked if Senator Schmidt would like to comment.

DISCUSSION:

Senator Schmidt said there were rules before the committee in the past that dealt with the grounds for disciplining medical professionals. There were certain criticisms in regard to language that was felt would be protective for public safety. **RS 22033** reflects that mutually agreed upon language.

**UNANIMOUS
CONSENT:**

Chairman Heider asked for unanimous consent to send **RS 22033** to the Senate Judiciary and Rules Committee for a print hearing. There was no objection.

**GUBERNATORIAL
APPOINTMENT:**

Chairman Heider asked for the consideration of the gubernatorial appointment of Mark P. VonLindern to the Hazardous Waste Facility Siting License Application Review Panel.

MOTION:

Senator Schmidt moved to send the gubernatorial appointment of Mark P. VonLindern to the Hazardous Waste Facility Siting License Application Review Panel to the floor with a recommendation that he be confirmed by the Senate. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL
APPOINTMENT:**

Chairman Heider asked for the consideration of the gubernatorial appointment of Suzanne Budge to the Hazardous Waste Facility Siting License Application Review Panel.

MOTION:

Senator Lodge moved to send the gubernatorial appointment of Suzanne Budge to the Hazardous Waste Facility Siting License Application Review Panel to the floor with a recommendation that she be confirmed by the Senate. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.

Chairman Heider asked for volunteers to carry the gubernatorial appointments to the floor. **Vice Chairman Nuxoll** volunteered to carry Ms. Budge's appointment. **Senator Schmidt** volunteered to carry Mr. VonLindern's appointment.

Chairman Heider introduced Ross Edmunds, Behavioral Health Administrator for the Department of Health and Welfare, and said **S 1114** was related to Behavioral Health services.

Mr. Edmunds said **S 1114** was a culmination of about a decade of work and that the majority of the bill's drafting occurred more than a year ago. **Mr. Edmunds** said his department decided to wait to bring the bill before the committee until now so he would have the opportunity to travel the entire state and meet with every regional mental health board, every regional advisory committee and numerous stakeholders to discuss this bill. While there might have been some detail disagreements throughout that time, all had agreed that this would give them the opportunity for input and local influence into the behavioral health system. **Mr. Edmunds** said **S 1114** aims to transform Idaho's current mental health and substance use disorder services into an integrated Behavioral Health System of Care to improve access to treatment, rehabilitation and recovery support services statewide. The transformation allows local communities and consumers to better influence how treatment is delivered and how recovery-oriented policies are developed. (See Attachments 7a, 7b, 7c and 7d.)

Mr. Edmunds said he thinks **S 1114** is a very critical step in the advancement, transformation and reform of the behavioral health system in Idaho.

Chairman Heider asked if the regional Behavioral Health boards would be responsible for support services. **Mr. Edmunds** said yes but, to clarify, the boards are not being forced to take on that responsibility but are being given the opportunity to do so. Until the regional boards are prepared to take on the opportunity, the Department of Health and Welfare will continue to handle the support services. **Mr. Edmunds** said he thinks providing regional boards with the resources to take care of their own community is a more effective way of managing these services. **Chairman Heider** asked why "mental health" was switched to "behavioral health" in the bill's language. **Mr. Edmunds** said the term mental health really deals only with mental illness and does not include substance use disorders, addiction, and dependence on drugs and alcohol. What changing it to behavioral health does, is make it inclusive of both mental health and substance use disorders.

Vice Chairman Nuxoll asked what a payer driven system is. **Mr. Edmunds** said a payer driven system are services that will be provided to people through their insurance benefit. **Senator Guthrie** asked if some of the opposition was in regard to combining regional advisory committees and mental health boards. **Mr. Edmunds** said there was some resistance to it about a year ago. But, as of today, most regional mental health boards and regional advisory committees meet together and will have the opportunity to create subcommittees. **Senator Guthrie** asked what the ongoing commitment money was earmarked for prior to this bill. **Mr. Edmunds** said the funds are currently being used in a variety of ways towards this effort now and there are some federal funds being used for rental systems for individuals who are at risk of being homeless. **Senator Schmidt** asked for clarification on the initial funding and the department's ongoing annual commitment. **Mr. Edmunds** said the department will give the regional boards some base money for operations to exist, so they can have the opportunity to do the work the department envisions them doing. **Mr. Edmunds** said the majority of the funding that will go to the regional boards is funding that exists in the department's budget and comes through federal funds. The department will contract with the regional boards and they will administer those resources locally. **Vice Chairman Nuxoll** asked if private providers will handle the behavioral health services to be offered. **Mr. Edmunds** said it is a mix now with some staff delivering services and some services contracted out to private providers. **Vice Chairman Nuxoll** asked if individuals are being provided

choices in regard to who they would like to be seen by. **Mr. Edmunds** said most of the individuals who are served fall into two categories: they are either in crisis situations or are court-ordered into Behavioral Health care. When an individual is in a crisis situation and are committed, there's not much provider choice. **Mr. Edmunds** said his department does, however, try to give those individuals an opportunity to see certain services or choose a particular doctor, etc. When individuals are court-ordered into care, a judge makes the choices. **Vice Chairman Nuxoll** asked if there are some instances in which an individual can have choices. **Vice Chairman Nuxoll** said if a patient or their family can help make decisions, it makes their treatment more personal and, oftentimes, those individuals are better pleased with the results. **Mr. Edmunds** said in every circumstance, anyone who is served would have the opportunity to have input, not only into the services they receive but who they receive them from. For example, if they do not seem to be making a good connection with who they are placed with, they always have the opportunity to request a different provider or person to see. **Mr. Edmunds** said it is absolutely critical to provide that opportunity to the individuals served because they need to be empowered to want to enter into their own recovery.

Senator Lakey asked about the Behavioral Health Center. **Mr. Edmunds** said he is the administrator and the center consists of state offices. There is a primary office and one in each of the seven regions of the state – with some satellite offices located around the states. Some of those are state-owned property and some of those are property leased by the department. **Senator Lakey** asked about the Behavioral Health Planning Council and if the regional Behavioral Health boards operate under the direction of the planning council. **Mr. Edmunds** said the regional behavioral health boards were created as entities unto themselves. They consist of a 22-member board and the business end of that board would be conducted by the executive committee of five members – which would come from the membership of 22. They would make the contracting decisions, etc. The planning council will establish the readiness criteria and it will establish whether or not those regional behavioral health boards have accomplished or achieved what is necessary for them to demonstrate their readiness to take on these responsibilities. **Senator Lakey** asked if the regional behavioral health boards will have staff and how they would interact with the behavioral health centers. **Mr. Edmunds** said if the regional behavioral health boards decide to take on the responsibility to stand by themselves, they will be responsible for some of these supportive services, accessing community resources and contracting out. **Senator Hagedorn** asked how **S 1114** differs from **S 1023** and why there was a need to reprint it. **Mr. Edmunds** said there were some very subtle, but important, changes made. The Supreme Court had some input on the bill and wanted to make sure that input was heard and represented. An example given was to ensure consistency in the definitions used to describe serious mental illness and serious and persistent mental illness. **Senator Schmidt** asked if the regional behavioral health board would contract for services. **Mr. Edmunds** said he does not envision them hiring all of their staff to do their duties, but that they would contract out. **Senator Schmidt** asked if the state's planning council and regional Behavioral Health committees will have a network to contract through or if the regional executive committees will be autonomous in their contracting decisions. **Mr. Edmunds** said the state's planning council will only be advisory in nature. This will allow that regional autonomy that had been so desperately asked for.

Chairman Heider asked if **Mr. Edmunds** would like to summarize his presentation. **Mr. Edmunds** said he feels very passionate about **S 1114** and that the behavioral health system is fragmented, broken apart and changing. This bill will help to ensure the state is doing right by the individuals who need help.

Senator Hagedorn said he appreciated Mr. Edmund's passion and asked what the timeline was for the implementation of this bill. **Mr. Edmunds** said he intends to have a toolkit available to every current regional health board and advisory committee before July 1 to help them become fully prepared to stand themselves up as quickly as possible. **Mr. Edmunds** said from July 1, 2013 to the next time he stands before the Senate Health and Welfare Committee, he hopes to have as many regional Behavioral Health boards as possible standing up.

Chairman Heider thanked Mr. Edmunds, said he appreciated him being there and that he gave a good presentation.

MOTION: **Senator Lakey** moved to send **S 1114** to the Senate floor with **do pass** recommendation. **Senator Martin** seconded the motion.

DISCUSSION: **Senator Hagedorn** said he hopes that next year, if **S 1114** does become law, Mr. Edmunds could come back and give the committee an update on its implementation, road blocks, etc.

The motion carried by **voice vote**.

Senator Lakey volunteered to carry **S 1114** to the Senate floor.

ADJOURNED: There being no further business before the committee, **Chairman Heider** adjourned the meeting at 4:09 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #4
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, February 27, 2013

SUBJECT	DESCRIPTION	PRESENTER
H 109	Relating to the Board of Pharmacy	Kate Haas
Minutes Approval Vote	Approval of Minutes of the February 12, 2013 meeting Committee consideration of the Gubernatorial appointment of Wendy Jaquet to the State Board of Health and Welfare	Senators Martin and Schmidt
S 1116	Continuation of Discussion of S 1116	
S 1053	Relating to the Discussion of S 1053 Fiscal Note	Chairman Heider

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 27, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:03 p.m.

H 109 **Chairman Heider** welcomed Kate Hass to present **H 109**, which relates to the Board of Pharmacy (BOP), and welcomed.

Ms. Hass said she represented the Idaho Society of Health-System Pharmacists. **Ms. Hass** said **H 109** emphasizes the diversity of practice on the pharmacy board, clarifies two of the five positions on the board, does not add positions to the board and has no impact to the board. (See Attachments 1a, 1b and 1c.)

Senator Hagedorn said he thinks **H 109** is a great bill and asked how the word "substantial" would be defined in the bill's language. **Ms. Hass** said the word is not specifically defined and is left up to the discretion of the governor when making appointments.

TESTIMONY: **Chairman Heider** asked if anyone wanted to testify on **H 109**.

Mark Johnston, Executive Director of BOP, said the board took the position of neutral on this bill, as done with similar bills in prior years. The board does not think it is appropriate to take a position on their own make-up. Overall the board is a proponent of the governor appointing the best BOP members possible and is a bit fearful that further definition of its composition might make such appointments more challenging.

Steve Millard, President and Chief Executive Officer of the Idaho Hospital Association, said he supports **H 109**. **Mr. Millard** said he respects the governor's and director's concern about geographical representation on the board, but felt that the different types of pharmacy practices are more important than geography when it comes to who should be making decisions on pharmacy issues.

Vice Chairman Nuxoll asked if there were any hospital pharmacists on the board now. **Mr. Millard** said he believed there was one.

MOTION: **Senator Martin** moved that **H 109** be sent to the floor with a **do pass** recommendation. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.

Senator Martin volunteered to carry **H 109** on the Senate floor.

MINUTES: **Senator Martin** moved to approve the February 12, 2013 minutes as written. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman Heider** asked if there was any discussion in regard to the gubernatorial appointment of Wendy Jaquet to the State Board of Health and Welfare.

Senator Bock said he has worked with retired-Representative Jaquet in the past and that it is hard to imagine anyone more qualified than she is.

MOTION: **Senator Bock** moved to send the gubernatorial appointment of Wendy Jaquet to the State Board of Health and Welfare to the floor with a recommendation that she be confirmed by the Senate. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Senator Lodge volunteered to carry the gubernatorial appointment of Wendy Jaquet on the Senate floor.

S 1116 **Chairman Heider** said the sponsor of **S 1116** has come forward two or three times since the bill was presented with an amendment. The primary difference is the notification at the earliest convenience. The Idaho State Communications Center shall, as soon as reasonably possible, notify the appropriate organ procurement organization, tissue bank or eye bank.

Chairman Heider said the motion sought would be to send **S 1116** to the 14th order for amendment reflecting the change.

Senator Hagedorn asked to be reminded on the process that **S 1116** has been through thus far. **Chairman Heider** said the committee passed **S 1116** and sent it to the floor. The committee then withdrew it from the floor because of the changes that were anticipated and, since then, there have been two sets of changes to come forward. Now, the committee will be sending it as amended to the 14th order with the change that was discussed. **Senator Hagedorn** asked why **S 1116** was pulled back from the floor to the committee; couldn't it have just as easily been sent to the amending order from the floor? **Chairman Heider** said it was because the committee did not have the proper verbiage at the time, he has received two or three sets of verbiage since then and needed to pull the bill back to committee in order to discuss it and then to decide to send it back to the floor or hold it in committee. **Senator Lakey** said there's a section of the bill he thought could use some wordsmithing. Rather than "notify Idaho State Communications Center the location the deceased will be," it should read, "of the location where the deceased will be." **Chairman Heider** asked if that was a make or break deal for Senator Lakey. **Senator Lakey** said he supposed not, but the language does not read clearly without the changes he suggested. **Chairman Heider** said he guessed the committee could send the bill back to its wordsmith one more time – which would be about the fifth time. **Senator Hagedorn** said he thought the only motion that could be made is to send **S 1116** to the amending order and whatever amendments come out, will come out. **Senator Bock** said he agreed with Senator Hagedorn and that the language would be completely flexible and could be reworded once it gets to the floor. **Vice Chairman Nuxoll** said she liked the bill's new wording much better than the other wording that had been before the committee. **Senator Guthrie** asked if **S 1116** was the bill to have language specific to an automobile or vehicle accident. **Chairman Heider** said that wording was in another version of the bill. **Senator Guthrie** asked what the definition is for, or who would be, a person considered "legally authorized." **Chairman Heider** that would be someone legally authorized to

declare a person deceased, such as a coroner, state patrolman, firefighter or Emergency Medical Technician (EMT). **Vice Chairman Nuxoll** said she thought that the individual is declared dead by a person legally authorized by the state, which would not necessarily be a firefighter, but a coroner. **Chairman Heider** said it would probably be the coroner or the hospital.

MOTION:

Senator Hagedorn moved that **S 1116** be referred to the 14th Order for amendment. **Senator Martin** seconded the motion.

DISCUSSION:

Vice Chairman Nuxoll said she had found out that judges have a very difficult time understanding the intention of some of the legislation that the Senate passes and since it is not recorded or taped, the only place they can really go – according to a judge she had spoken with – is the statement of purpose. **Vice Chairman Nuxoll** said she would like to put more wording in the statement of purpose in regard to individual being declared deceased by a person legally authorized by the state of Idaho. **Senator Bock** said he believed the judge that Vice Chairman Nuxoll talked to was incorrect and that the statement of purpose could not be used for legislative intent. **Vice Chairman Nuxoll** asked what could be. **Senator Bock** said the language of the statute. **Senator Guthrie** said, due to the amendments made within the bill, the statement of purpose does need to have some work done to it.

Chairman Heider asked the committee to vote on the motion that was made. The motion carried by **voice vote**.

Chairman Heider volunteered to carry **S 1116** on the Senate floor.

S 1053

Chairman Heider said **S 1053**, which deals with the issuance of Supplemental Nutrition Assistance Program (SNAP) benefits, was sent to the floor with a six to three motion in favor of moving it forward to the Senate floor. **Chairman Heider** said there was discussion about the fiscal note having changed and it was brought to the committee's attention that it would be more easily accepted if the fiscal note reflected what really was happening to the SNAP program.

DISCUSSION:

Vice Chairman Nuxoll said it was her hope, in sending the bill to the floor, was that it would not be costing as much, especially the ongoing funding. **Vice Chairman Nuxoll** said if that is really what the cost is going to be, she did not think she could vote for it. **Senator Hagedorn** asked what the estimated savings were in 2008 when Idaho went from a multi-day to a single-day issuance. **Chairman Heider** asked David Taylor, Deputy Director of Department of Welfare's Support Services, to answer Senator Hagedorn's question. **Mr. Taylor** said he believed there was a savings in regard to personnel and estimated the savings to be from \$45,000 to \$60,000 annually. **Chairman Heider** thanked Mr. Taylor and asked if there were further questions. **Senator Guthrie** said he thinks the issue with the SNAP program is bigger than converting back to a ten-day staggered issuance. **Senator Guthrie** said he had a problem with spending the \$683,200 for the initial implementation costs when the money could be put to better use elsewhere. **Senator Guthrie** said that he appreciated the hard work that was done, but he would not be able to support **S 1053**.

Senator Lodge said there has been much thought throughout the years of how to address issues with the SNAP program, aside from staggering issuance days, such as what food is being purchased and how to stretch food dollars throughout the month. **Senator Lodge** said she had spoken with people from the Idaho Food Bank who told her that it would cost another \$300,000 to \$400,000 a month to help feed people throughout the ten-day staggered span. In 2005, Idaho was fined about \$138,000 for not being timely and accurate in getting food stamps issued. In 2006, Idaho was fined about \$230,000 for not being timely and accurate. **Senator Lodge** said she then became chairman of the Senate Health and Welfare Committee and worked with the Idaho Department of Health and Welfare closely. The department worked to try to come up with something that would be viable for everyone and decided on the first-day SNAP issuance. Aside from complaints from other shoppers and from some grocery stores, no complaints were received from those receiving SNAP benefits. **Senator Lodge** said Idaho was issuing about \$9 million in foodstamps per month in 2007. Today, it's about \$30 million. Fifteen percent of that money is spent on the first day of the month and ten percent on the second of the month – that's a huge number of people using foodstamps and a huge amount of money that is being spent. **Senator Lodge** said the an interim committee should be put together a group of people, representing food banks, grocers, etc. – who are all willing to keep emotions out of their discussions and decision – to address problems and issues and come up with ideas for solutions. **Senator Lodge** said she had an issue about using money given to the department as a bonus to change the SNAP program again when it is not even known if the change will be beneficial. **Senator Lodge** said she had materials on ideas she had to better the SNAP program. **Chairman Heider** said he appreciated Senator Lodge's future legislation, but the committee was to vote on whether to send **S 1053** back to the floor since it had been withdrawn. **Senator Lodge** said she believed her comments fit in with the current legislation; that she has had a long history with the Senate Health and Welfare Committee – and has seen what has happened over the years; that she could not support spending \$683,200 to implement the bill; and would be voting no on the bill.

Senator Hagedorn said he thinks that the previous change of a multi-day issuance to a single-day issuance worked well for the participants but not for a lot of other individuals. Although it is unfortunate to spend some bonus money to go back to the previous system, the annual costs will basically be the same. **Senator Hagedorn** said he agreed with Senator Lodge's idea of putting together a group of individuals to address issues that come up in the SNAP program. **Senator Hagedorn** said he believed a staggered issuance of SNAP benefits to be a much better idea.

MOTION:

Senator Schmidt moved that **S 1053** be sent to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion.

ROLL CALL VOTE:

Chairman Heider asked for a roll call vote. **Chairman Heider, Senator Hagedorn, Senator Martin** and **Senator Lakey** voted aye. **Vice Chairman Nuxoll, Senator Lodge, Senator Guthrie, Senator Bock** and **Senator Schmidt** voted nay. The motion failed.

ADJOURNED:

There being no further business before the committee, **Chairman Heider** adjourned the meeting 3:47 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, March 04, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes of the February 4, 2013 Meeting	Senators Lakey and Bock
Minutes Approval	Approval of Minutes of the February 7, 2013 Meeting	Vice Chairman Nuxoll and Senator Schmidt
Minutes Approval	Approval of Minutes of the February 14, 2013 Meeting	Senators Martin and Schmidt
SCR 116	Relating to Toxic Substances	Senator Dan Johnson
H 142	Relating to Dentists	Michael Kane, Idaho Board of Dentistry Counsel
PRESENTATION	Relating to the Community Health Care System in Idaho and Medicaid	Tom Fronk, Executive Director, Idaho Primary Care Association (IPCA)

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, March 04, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Guthrie, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED: Senators Lodge and Hagedorn were excused

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the Senate Health and Welfare Committee to order at 3:00 p.m., and a silent roll was taken.

MINUTES: **Chairman Heider** asked for the approval of the February 4, 2013 meeting minutes.

MOTION: **Senator Bock** moved to approve the February 4, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the February 7, 2013 meeting minutes.

MOTION: **Vice Chairman Nuxoll** moved to approve the February 7, 2013 meeting minutes. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the February 14, 2013 meeting minutes.

MOTION: **Senator Martin** moved to approve the February 14, 2013 meeting minutes. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

SCR 116 **Relating to Toxic Substances.** **Senator Dan Johnson** informed the committee that this resolution basically deals with toxic substances in the home, and provides awareness. The more consumers are informed, the more choices they have on the products they bring into their home. He informed the committee that there are more than thirty years of health studies that show that toxic substances play a role in the incidence and prevalence of many diseases and disorders, including cancer and birth defects. Society has an interest in reducing the exposure of pregnant women, children, and other vulnerable populations to known toxic substances, and ensuring that consumers have access to the information they need to make informed decisions regarding the health of their families.

Senator Johnson cited a "List of Chemicals of High Concern to Children" created by the state of Washington, which is not an exhaustive list, but serves as a resource that will allow companies and consumers to make better choices. This is a bipartisan resolution, sponsored by Senator Johnson and Senator Buckner-Webb, and endorsed by the Conservation Voters for Idaho, Right to Life of Idaho, and Planned Parenthood.

Senator Johnson informed the committee that he had spent a part of his life being a licensed sanitarian, or an environmental health inspector, if preferred. One of the things he did in that position was to actually go into homes and look for hazards to a family, which could include anything from unsafe children's products to chemicals, such as formaldehyde.

Senator Guthrie pointed out Line 27 of **SCR 116**, which states that a company has committed to manufacturing their products using naturally safer substances, and he voiced his appreciation of that effort. However, he stated this resolution would make more sense to him if that line were eliminated. He didn't understand why that information was in the resolution.

Senator Johnson replied that it was an easy target, and when he was working with the sponsors on this resolution, they had talked about not mentioning a particular company; he felt they would be open to excluding that information.

Senator Bock indicated that he had the same concern, that he felt it was inappropriate to single out a specific company, and asked that the company be removed from the resolution language.

Chairman Heider stated that in the resolution, he had a concern about the mention of toxic substances and chemicals, but does not actually list any specifically. He asked the purpose of the resolution.

Senator Johnson replied that the purpose was awareness and information to consumers that when they purchase products, there are potentially harmful substances they should be aware of so they may make a better informed choice or use alternatives.

Vice Chairman Nuxoll asked if some of the toxic substances could be listed, and was there something in a household product that is not being listed?

Senator Johnson replied that he was not sure he could answer comprehensively. He stated that he used Washington Code because they created a substantive list that he was comfortable with, and was not different, for example, from Idaho using Washington's standards for the packaging of apples. He stated they were referencing that code, or incorporating it by reference, since Washington has done the work and has identified chemicals of concern. Formaldehyde is found in all types of manufactured products, as in vinyl chlorides and benzenes, for example.

Chairman Heider stated there were several people who wished to testify on the matter, and requested that they be allowed to speak at this time.

TESTIMONY:

John Reuter, Conservation Voters for Idaho, stated that they stand strongly in favor of the concurrent resolution and thank the cosponsors for bringing it forward. He explained that the reason one company was named specifically in the resolution was because they had been a tremendous leader on this issue nationally to ensure that we have safer products from producers in general. They deserve to be commended. He encouraged the passing of this resolution because of the positive impact it will have for all of our families.

Hannah Brass Greer, Legislative Director for Planned Parenthood, stated the goal is for healthy families, and Planned Parenthood supports this resolution.

Jason Herring, President of the Right to Life of Idaho, stated that this resolution is a good start in protecting families and future citizens from potentially harmful substances.

Vice Chairman Nuxoll asked Mr. Herring for an example of something that is toxic to babies in the womb that is contained in household products.

Mr. Herring answered that he could not speak to that directly, since it is a new area. He stated there is substantial research and evidence that there are substances that do affect the unborn child and pregnant mother, but could not offer any further information.

Pam Eaton, President of Idaho Retailers Association, stated that she was uncomfortable being here today speaking on this concurrent resolution because, while she doesn't disagree with anything that Senator Johnson has to say and is not against awareness or distribution of information, but has a concern about this opens the door for problems. She furthered that it has been seen in all states of efforts to stop harmful products that are not backed by proven science. She stated there is often times unintended consequences when a product seen as being harmful is stopped from being manufactured. Manufacturers are pressured into changing the product, just to find out years later that the product doesn't work or that the change was more harmful than the original product. She didn't want to see a lot of legislation get started that bans things down the road, and was testifying in opposition, although applauded the sponsors for the awareness part of the resolution.

Senator Johnson shared that he would be equally concerned as Ms. Eaton if this went the wrong direction, but he believed it was for information and consumer knowledge. He asked to read some material from the Washington State Legislature, RCW 70.240.030, that explained how these chemicals are identified, and that may answer some of the questions that the committee may have.

(1) By January 1, 2009, the department, in consultation with the department of health, shall identify high priority chemicals that are of high concern for children after considering a child's or developing fetus's potential for exposure to each chemical. In identifying the chemicals, the department shall include chemicals that meet one or more of the following criteria:

- (a) The chemical has been found through biomonitoring studies that demonstrate the presence of the chemical in human umbilical cord blood, human breast milk, human urine, or other bodily tissues or fluids;
- (b) The chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or
- (c) The chemical has been added to or is present in a consumer product used or present in the home.

He furthered that to answer Vice Chairman Nuxoll's question, a chemical that comes to mind is mercury or mercury compounds that are absorbed directly through the skin.

DISCUSSION: **Chairman Heider** invited discussion, and commented that he, too, is concerned about endorsing one business over other businesses in Idaho, because it does not seem fair to point out a particular one versus all the other good companies of Idaho.

Senator Guthrie asked Senator Johnson if a jar of Comet, for example, contained ingredients that may, by themselves or in high doses, be dangerous or lethal, but combined with other substances that make up the product Comet, are now not dangerous - how would that be delineated on the label? Are you advocating that Comet voluntarily pull out those dangerous ingredients and list them as lethal, or how is that information conveyed product by product? He furthered that Coca Cola has things in it that by themselves could be harmful, but mixed with other things are not harmful. How is all of that sorted out?

Senator Johnson replied that if there was a chemical, in combination with other chemicals or by itself, that somehow needed a consumer warning, it should probably have a label that indicates this product contains a substance that may be harmful to children or pregnant mothers.

Senator Lakey commented that lines 32 and 36 use a term, "potentially harmful substances," which seems broad. He asked why not just use the term "harmful."

Senator Johnson referenced the comment he had made with the Washington State RCWs; some of these chemicals show up only through biomonitoring, or there may be some other known side effects. One could always study these things until more concerns were found or eliminated with a certain chemical.

Chairman Heider asked that when Senator Johnson refers to the state of Washington having published a list of chemicals of high concern to children, where does the general public find that information? If it is read in our resolution, where does the general public go to find the state of Washington's list of chemicals that are harmful? Without that information, how is that reference helpful?

Senator Johnson replied that it was appropriate to include in the resolution some kind of a citation, which could probably be done, but the list can also be found doing a Google search. There were several standards that were looked at from other states, but this is the one we felt most comfortable with that fit Idaho the best. It was more complete and transparent.

Senator Lodge commented that on the reference to the one company. She felt it was a disservice to other small companies that are also producing products that are chemical-free, and asked that the reference be removed. We know that particular company is important to the economy of Idaho, but it puts the other companies at a disadvantage.

Senator Johnson responded that the point was well-taken.

Senator Guthrie presented a scenario in which there was Company A and Company B: Company A is very forthcoming in disclosing potentially harmful things, so it drives the consumer to Company B for the same product and their product is actually worse. This could have the opposite effect of the intended effect.

Senator Bock stated that he had a couple of comments. Referencing a private company does not seem appropriate. The other is the reference to the state of Washington. That might be something that could give senators pause. He thought it would be better off if we had a list instead of naming the state of Washington as the source. He asked if Senator Johnson would be willing to hold this resolution back until a redrafting could be done?

Senator Johnson commented that he thought that was a good idea, and that he was willing to do so.

Senator Lakey stated that he appreciated that. He would like to see the word "potential" removed.

Senator Johnson replied that there may be some reasons why a company would not disclose the product's chemicals that they are using. One of them could be they are tracing those for proprietary information. There could be a situation where someone may have a chemical of concern used in that process that they would not want to disclose.

MOTION:

Senator Lodge moved to return **SCR 116** to the sponsor for corrections and then bring back a new resolution. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.

Relating to Dentists. **Mike Kane**, Idaho State Board of Dentistry (Board), informed the committee that this bill that deals with the practice of dentistry and a statute in Idaho Code § 54-924 that speaks of disciplinary things that could happen to a dentist that fall outside of the law. The Board is empowered to discipline members of the profession when they find that a violation of the statute has been violated. It has two parts. On page one, the current subsection 2 of the statute, it states that no dentist may practice under any name other his own true name unless the dentist forms a professional service corporation. The obvious reason for that is that dentists should be practicing as dentists and hold themselves out as dentists, but can form a corporate entity if they wish. A professional service corporation is a corporation made up of professionals and these corporations must be owned entirely by dentists. That is the law. The only way a dentist can practice currently is under his own name, or if he wishes to practice under a fictitious name, such as Southwest Dental Associates or Advantage Dental or whatever, a special kind of corporation must be formed, owned only by dentists.

In another section of the law is the Professional Limited Liability Company Act. This act has been on the books for ten or fifteen years, and allows for dentists to form professional limited liability companies, similar to what lawyers and doctors do on a Professional Limited Liability Company (PLLC), for example. We want to make sure that dentists understand that they can form a PLLC or a corporation as long as all members are duly licensed to render the same professional services. The proposed legislation also provides the necessary statutory authority for the Board of Dentistry to take disciplinary action against a licensee who engages in the practice of dentistry, other than in a limited managed care plan, with any business entity in which a person not duly licensed to practice dentistry in this state holds an ownership interest. The second part is probably the more substantive portion of the bill, and this deals with the practice of dentistry.

It has been implied that non-dentists cannot own dental practices. We want to make it absolutely clear that non-dentists should not be running dental practices. First of all, it is a crime in this state for anyone to claim to be a dentist or practicing dentistry unless they are licensed to practice dentistry by the Board. We have had some situations in the last couple of years where we have found out-of-state interests are coming in without knowing what our law is, forming corporations not owned by dentists, calling themselves dental practices and hiring a dentist. Then there is a problem between the dentist and the owners of the corporation, the dentist is fired, and patients were left without a dentist. They don't know where their records are and they don't know how to go about seeing a dentist, sometimes in emergent situations. We thought it was appropriate to make it very clear that if you are a non-dentist, you don't get to run a dental practice. We believe that is appropriate because corporate or business interests should never trump health issues and dental procedures. We believe it is already the law, but we are wanting to be crystal clear that is the law. That is what part two is about.

This bill is supported by Willamette Dental, which is a managed care organization, and it is also supported by State Dental Association. **Mr. Kane** indicated that he just heard some opposition to this bill, but couldn't respond to it at this time because he is unaware of the issue.

Senator Bock stated that he was confused and needed clarification. Are we saying that dentists cannot practice in a C Corporation?

Mr. Kane replied that under the current law, a person must be a professional service corporation, which is set up specifically for professionals to form corporate structures, but it must be dentist-owned.

Senator Bock asked why a dentistry cannot be conducted through a C Corporation. Why are these restrictions in place?

Mr. Kane stated that one could form a professional C Corporation under the terms of a professional service corporation as long as it was dentist-owned.

Senator Bock then referred to the bottom of the second page where the new language is located, and is having trouble understanding it; it may need to be reworded for clarity.

Mr. Kane stated the first clause says you shall not engage in the practice of dentistry other than in a limited care plan. That second clause modifies the first clause. It goes on to say that as a member (which would be a PLLC or LLC), stockholder, employee, director, partner or proprietor of any business entity in which a person is not to be duly licensed to practice in this state holds an ownership interest. He believed that long clause modifies the first clause.

Senator Bock stated that he thinks the language needed clarity.

Senator Guthrie stated that a person cannot run the practice or dental group unless they are a dentist. He offered a comparison that in Pocatello, Portneuf Medical Center is owned by Legacy Health Partners and the Community Benefit Organization. It is a kind of a partnership and they are not doctors or health care providers per se. He confirmed with Mr. Kane that only dentists can own the group, and that business owners cannot own a business and then employ dentists.

Mr. Kane stated that what they are trying to do is prevent a person who is not a dentist from owning a dental practice. There is a code of ethics that dictates a responsibility to do the right thing. The law already exists, but we want to make it very clear.

Senator Guthrie asked how is it different from what he just described, where entities own hospitals and they are not doctors. How is that different?

Mr. Kane replied that he was not overly familiar with the structural entities for hospitals, but he was under the impression that hospitals are places where doctors come to do their work. But medical offices and medical practices are owned by doctors. We have dental offices where people get their teeth worked on, and those must be owned by dentists, which is already the law. We are just making the law clearer.

Senator Guthrie commented that it is very common for physicians to be employed by the hospital.

Mr. Kane stated that he did not disagree, but he was unsure if it had any applications to the practice of dentistry.

Senator Schmidt wished to discuss the final paragraph on page two again. He stated that it looked to him that the language was trying to limit anyone from being an owner or partner, or director who isn't licensed to practice. So would a multi-dental practice of several dentists not be able to hire a clinic director that was not a dentist?

Mr. Kane answered no, because the first clause states the person has to be engaged in dentistry. Certainly, you can hire an employee to come in and help manage the practice in accounting or as a bookkeeper or a director, but if you are going to engage in the practice of dentistry, you cannot set up a corporation if you are not a dentist and then start hiring people as dentists.

Senator Schmidt commented that he was not comfortable with the wording as well, because it seems there is some uncertainty. If there was a group of partners with a dentist and the dentist leaves the group to practice in another state, does that leave the remaining partners subject to discipline?

Mr. Kane replied that could be a violation of the Professional Service Corporation Act. We don't want people who are not dentists to have ownership interests in a dental profession.

Senator Schmidt stated that he understood the language to mean the people who are licensed and practice in Idaho and had a partner who is not licensed are subject to discipline.

Mr. Kane replied that was correct.

Senator Lodge asked Mr. Kane to explain how this would affect Terry Reilly Health Services.

Mr. Kane replied that he was not sure if Terry Reilly Health Services has employees who are dentists. They may have contractors. He was unsure.

Senator Lodge asked if there were someone present who knew more about the Terry Reilly Health Services clinics.

Chairman Heider responded that there are several people who have signed up to speak, and that we would hear from some of the others.

Senator Martin asked if there were other entities, such as doctors, lawyers or plumbers that also must follow this, or are they precluded?

Mr. Kane responded that other professions are precluded from having non-professionals as part of the corporate structure. He gave the example of lawyers. Rule of Professional Responsibility 5.4(4) specifically prevents non-lawyers from owning a legal practice.

Senator Bock stated that he knows it is certainly true of lawyers and what Mr. Kane is saying is correct. But he had a concern that more and more conglomeration of practice and it is happening between accountants and lawyers in various places. The clause seems to be correct, but it seems to be running against the way things are today. As an example, **Senator Bock** asked if that St. Luke's wanted to open up a dental division, would they not be able to do that?

Mr. Kane replied that was incorrect. If they wanted to have dentists come and work at St. Luke's, they could do that.

Senator Bock asked that in all instances in which a physician is practicing, such as within the St. Luke's organization, are those are taken on as contractors and not as employees? Are there any exceptions to that?

Mr. Kane responded that he could not speak to the medical side of that, but dentists now are prevented from practicing any way other than through their true names, a sole proprietorship or partnership, or a professional service corporation.

Vice Chairman Nuxoll inquired why this bill is necessary.

Mr. Kane replied that there are a couple of laws that are currently on the books that are in conflict with our Dental Practice Act. The Dental Practice Act says that a person must practice under their true name or a fictitious name (which is a corporation). There are statutes in the code that allow for dentist-owned professional limited liability companies, which are not the same things as corporations. Those are less structured. Those are allowed now, but are not mentioned in our code, nor is the Managed Care Act mentioned. We want to make sure it was allowed elsewhere in the code, such as in our Dental Practice Act. It is also to prevent non-dentists from running a dental office.

Chairman Heider announced that others in the audience were going to testify at this time.

TESTIMONY:

Dr. John Blaisdell, dentist from Caldwell, Idaho, and also finishing his term as the Chairman of the Board of Dentistry for the state of Idaho. Over the last five years while serving on the Board, he has run into a number of issues while going through the Dental Practice Act, trying to clarify issues and make sure things are in sync with other laws and statutes that are in the code. He ran into a specific situation where they had an outside person in Utah who had an interest with a dentist in an office in Boise. They had a business split and because of the way technology is, the dentist was locked out of the office, had no access to his patients' records or phones, nor were his patients able to contact him. In our view, as the Board of Dentistry, if a dentist did that, he would be abandoning his patients and violating ethical law, and would face sanctions or some review by the Board of Dentistry. In this case, there was nothing that we could do. Patients were left hanging. We were concerned for the protection of the patients' records. This is one of the biggest reasons we are looking to clarify the code.

Elizabeth Criner, was speaking on behalf of the Idaho State Dental Association, which represents more than 800 practicing and licensed dentists in the state of Idaho. We support the changes in **H 142**. In short, this ensures that dentists are able fully utilize the options available in Idaho Code today in how they structure, organize and name their dental practice. We also agree with the Board of Dentistry, that the health interests of patients are best protected when dental care decisions are under the control and professional judgement of licensed dentists. In Idaho Code, or the Professional Service Corporation Act (title 30, chapter 13), and the Idaho Uniform Limited Liability Company Act (title 30, chapter 6) limited the rendering of professional services to the public by licensed professionals. The second change in **H 142** clarifies this point within the Dental Practice Act. By adding subsection 14, the bill further strengthens the authority of the Board of Dentistry to take action against a dentist who engages in the practice of dentistry other than in a limited managed care plan with a business entity in which a person not licensed to practice dentistry in this state holds an ownership interest.

Senator Guthrie asked Ms. Criner if she were saying that a business group could own the building as long as dentists run it, or was that not an option?

Ms. Criner replied that many dental practices do not have to own the building, and you may have a long-term lease with the building. The people who are running the practice business are all dentists.

Senator Guthrie then asked if a dentist running the practice gets together with a quasi-board and hire an office manager, is that legal?

Ms. Criner responded that is was legal. The office management side of things are handled by staff. They could not be an owner of the practice, but rather an employee of the practice.

Vice Chairman Nuxoll asked are all dentists licensed?

Ms. Criner responded that all dentists have to be licensed.

Senator Schmidt inquired if a doctor in a little town sets up his dental office and makes his wife his business manager and partner, is that illegal?

Ms. Criner stated the question is beyond her depth of knowledge.

Mr. Kane answered that it would be illegal.

Roy Eiguren, lawyer and lobbyist, stated that he represents a provides dental service organization that provides services to dentists in various ways. They have questions about how this would apply, and we request that the bill be held for a few days so there is an opportunity to look at the bill and better understand it.

Chairman Heider asked the committee what they wished to do.

Senator Bock stated it would be his preference to send this bill to the Amending Order.

Mr. Kane stated that due to the questions he has heard, he had no objection to the bill being held for a few days.

Senator Lodge asked Mr. Kane to find out how this will affect Terry Reilly Health Services.

Chairman Heider suggested that Mr. Kane speak with Mr. Eiguren and his clients and discuss their issues with the bill.

Mr. Kane responded that was his intent.

Vice Chairman Nuxoll moved that **H 142** be held in committee. **Senator Lodge** seconded the motion. The motion carried by a **voice vote**.

PRESENTATION: Relating to the Community Health Care System in Idaho and Medicaid. John Watts, legal advisor for the Idaho Primary Care Association (IPCA), introduced Tom Fronk, the Executive Director of the Idaho Primary Care Association. **Mr. Fronk** informed the committee that he had given each of them a handout (see attachment 1). He indicated that on page 2 of the handout, there was a map of the community health centers (CHC) in Idaho.

Mr. Fronk pointed out the IPCA is made up of thirteen non-profit health centers that provide comprehensive primary care (medical, dental, behavioral, and supportive) and serve high need populations and areas. Charges are based on a family's income and family size.

He informed the committee that in 2011, they provided over a half-million health care visits, with 72 percent being medical visits, eleven percent behavioral visits, fourteen percent dental visits and three percent other.

Senator Bock referred back to the dentists, and asked Mr. Fronk since he probably has dentists on staff, have any of the professional organizations' regulators approached him and informed him that he cannot practice this way?

Mr. Fronk replied no. To his knowledge, virtually all of his physicians, dentists, mental health professionals and so forth are employed.

Returning to his presentation, **Mr. Fronk** informed the committee that approximately 140,000 Idahoans receive care in his health centers across the state in 2011, and he showed the income breakdown in his handout (refer to attachment 1).

He stated that of the 142,000 patients, 48 percent are uninsured. He furthered that less than 20 percent have some form of private coverage, while 24 percent are on Medicaid and nine percent are on Medicare.

He referred to page 8 of the handout, and informed the committee that the cloud of safety net providers listed there, his organization's market is in the charitable cloud. It is their mission to be in that part of the system.

The 2010-2011 studies from the Kaiser Family Foundation show that there are approximately 281,000 uninsured people in Idaho. One out of four of those 281,000 are seen in the Idaho CHC.

He informed the committee that Medicaid expansion would have a material impact on the collective CHC payer mix. It would improve continuity of care for those that are uninsured. He stated that the IPCA is in support of the state efforts to develop an Idaho health plan. He stood for questions.

Vice Chairman Nuxoll asked why there are not more in rural areas.

Mr. Fronk replied that there is a gap. Economics makes it difficult, and federal grants that were scheduled to be dispersed have now diminished.

Senator Schmidt asked if Mr. Fronk would talk about federally qualified health centers (FQHC).

Mr. Fronk stated that there are two terms that are often used interchangeably: CHC and FQHC. Community health centers are one of the small groups of organizations that qualify for federal funding. The black lung clinics in the Appalachians qualify as FQHCs. Renal disease clinics also qualify.

Chairman Heider asked Mr. Fronk to explain the source of all of this funding.

Mr. Fronk replied that he could get back to the committee instead of trying to come up with the answer off the top of his head. Federal grants are a minority payer. Most of the money that comes in to the CHCs are from collections from either insurers or from the patients themselves. There are no free clinics in this group. Medicaid is the biggest payer.

Senator Lodge asked Denise Chuckovich to answer a question.

Denise Chuckovich, Deputy Director, Department of Health and Welfare, introduced herself and stood for questions.

Senator Lodge asked her to explain how dentists are employed with their health clinics.

Ms. Chuckovich replied that the health centers have well over twenty dental clinics and they are mandated by the federal government to operate a dental clinic as a part of their services.

Mr. Fronk concluded his presentation.

Senator Bock asked Mr. Fronk to offer input to the previous speaker. **Mr. Fronk** replied that he would.

ADJOURNED: There being no further business to come before the committee, **Chairman Heider** adjourned the meeting at 4:30 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, March 06, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes of the January 28, 2013 Meeting	Senators Martin and Bock
Minutes Approval	Approval of Minutes of the February 8, 2013 Meeting	Senators Lakey and Bock
Minutes Approval	Approval of Minutes of February 13, 2013	Senators Guthrie and Schmidt
Minutes Approval	Approval of Minutes of the February 26, 2013 Meeting	Senators Lakey and Schmidt
HCR 6	Relating to Prescription Monitoring Program	Representative John Rusche
HCR 10	Relating to Time-Sensitive Emergency Care System	Representative John Rusche

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, March 06, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:02 p.m.

MINUTES: **Senator Bock** moved to approve the January 28, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

Senator Lakey moved to approve the February 8, 2013 minutes as written. The motion was seconded by **Senator Bock**. The motion carried by **voice vote**.

Senator Guthrie moved to approve the February 13, 2013 minutes as written. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

Senator Schmidt moved to approve the February 26, 2013 minutes as written. The motion was seconded by **Senator Lakey**. The motion carried by **voice vote**.

HCR 6 **Chairman Heider** welcomed Representative John Rusche to present **HCR 6**, which relates to the Prescription Monitoring Program (PMP).

Representative Rusche said **HCR 6** recognizes the problem of prescription drug abuse and encourages an Idaho response. Prescription drug abuse has become an epidemic in the U.S. and Idaho; it is the leading cause of Emergency Room (ER) visits for drug overdoses; and it has climbed only behind alcohol in lethality of drugs for Idahoans. **Representative Rusche** said there are many facets to the issue: patients with chronic pain or addiction; prescribers hurried in their practices or maybe unfamiliar with the patients in an ER or Urgent Care setting; dispensing pharmacies not being selective in their filling habits; families that have narcotic medications at home; and adolescents who believe that prescriptions are safe. Add to the fact that there is a large market on the street and in the schools for the drugs and a marketing promotion for the use of pain medicine, there is little surprise that the problem has grown. A year ago, in response to several people overdosing on prescription narcotics, a workgroup was started. That workgroup involved the boards of medicine, nursing and pharmacy, the Medical Association, the Hospital Association, law enforcement, prosecutors, community drug prevention advocates and others. It allowed for the discussion of the issue and the development of recommendations. **Representative Rusche** said the Office of Drug Policy (ODP) took over leading the effort and the workgroup has made some improvements in the way Idaho handles drugs. First, the PMP database is modernized, staffed better and has become easier to use. In addition, it is proactive in informing practitioners and prescribers of patients' prescription use patterns. The ODP also led the development of a media effort of locking away or destroying medications, and that

effort has been endorsed by the Millennium Fund – which has been backed by the Joint Finance-Appropriations Committee for funding this year. Also, licensing boards are more aware of the harm and are approaching the professions with more scrutiny. **Representative Rusche** said there is still a lot of work to do and **HCR 6** recognizes the critical role of the licensing boards and law enforcement and instructs the ODP to continue working in their lead role.

DISCUSSION: **Vice Chairman Nuxoll** asked Representative Rusche to explain the idea behind the statement: "further resolve that the ODP shall coordinate the development of a state response to the problem of prescription drug abuse." **Representative Rusche** said it refers to the recognition of the role that ODP has in facilitating the workgroup. It does not call for the establishment of another body or entity.

MOTION: **Senator Lodge** moved that **HCR 6** be sent to the floor with a **do pass** recommendation. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

HCR 10 **Representative Rusche** said **HCR 10** concerns time-sensitive emergency conditions. Two years ago, legislature instructed the Health Quality Planning Commission (HQPC) to examine systems of care and make recommendations due to evidence showing that Idaho had a greater number of stroke casualties – deaths and disabilities – than the United States as a whole. Within a year and a half investigation, it was discovered that Idaho has problems dealing with time-sensitive emergency conditions and does not have an organized manner for dealing with these emergencies. **Representative Rusche** said the three conditions he was referring to are trauma, stroke and heart attack. Those are three of the top five causes of death in Idaho and have higher fatality and disability rates than would be predicted, given Idaho's population. The HQPC also discovered that a defined trauma system was the backbone for time-sensitive emergency care and Idaho does not have a well-organized trauma system. Attempts in the past to develop a system were met with concerns about local hospitals being left out and bypassed for larger facilities. **Representative Rusche** said the commission also heard evidence that a comprehensive system – from community awareness, having trained and qualified Emergency Medical Technicians (EMT) to coordinating and transporting to facilities with clinical services appropriate for the injury – lessens the chance for disability and actually lowers costs. Based on research and review, the HQPC suggested that Idaho develop a system of care for these time urgent conditions. **HCR 10** calls on the Department of Health of Welfare and the Emergency Medical Services (EMS) Bureau to develop a trauma plan that can be used to organize time-sensitive emergency services throughout Idaho. **Representative Rusche** said **HCR 10** was developed with the assistance of the Department of Health and Welfare and it does not assign a task to them that they were not seeking.

DISCUSSION: **Chairman Heider** asked what an organized system for care for trauma, stroke and heart attack looks like - is it part of a hospital organization, a separate state organization, etc.? **Representative Rusche** said he believes one of the recommendations will be to plan out the system. Some states do their systems through their hospital associations, some through their Health and Welfare type of departments and some via their public safety. **Chairman Heider** asked if the system of care dealt with the education of the public, the training of EMT and EMS personnel and the coordination of communications with hospitals. **Representative Rusche** said yes, and also making sure that the hospitals take as much as they feel that they can handle without having them feel like they are getting patients dumped on them or stolen from them. It is a coordinated process that really needs a system of ongoing interactions and one of the other components is data acquisition.

Vice Chairman Nuxoll asked how the working group is set up and what the cost of that is to the state. **Representative Rusche** said, based on what was done with other projects in the past, the group will be comprised of some of the Department of Health and Welfare's employees – their existing employees, not new employees. Existing grant monies will be used for such things as telephonic conferences or travel expenses. And volunteers will also donate their time – such as surgeons, EMS, hospital, nursing staff, administrators, etc.

TESTIMONY:

Toni Lawson, Vice President for Governmental Relations for the Idaho Hospital Association (IHA), said, in the past, IHA members have not always been excited about moving forward with a state trauma system because of concerns of how it would be organized and what the impact would be on rural providers. There were small rural hospitals that had concerns that a statewide trauma system – if not organized appropriately – would simply mean bypassing all rural providers to go to large tertiary centers because they were thought to have the better type of care or be the only entities able to handle these emergent situations. With technological improvements and improved coordination of care, IHA members really think that now is the time to move forward on something like this. **Ms. Lawson** said IHA's board members have taken a position in favor of **HCR 10** because they think it is the right thing to do and is necessary to improve care for patients of Idaho.

Chairman Heider asked if there is anything specifically expected of the Department of Health and Welfare to do – such as provide money, set up the organization or arrange for meetings, etc. – that is relative to **HCR 10**. **Ms. Lawson** said she believes the department would convene the group, provide the logistical support, provide the organizational support and make sure that appropriate input is collected from all stakeholders in order to develop a plan.

Chairman Heider asked if Representative Rusche had any closing comments.

Representative Rusche said he has worked with the Department of Health and Welfare and its director, Richard Armstrong – who is supportive of **HCR 10**. **Representative Rusche** said Mr. Armstrong's belief is that there will be a little cost in getting people to come together – such as telephone costs for teleconferences – but it is well within what he has in his budget for similar type of activities.

Senator Schmidt said he was in favor of **HCR 10** and that it relates to what he does for a living. **Senator Schmidt** said he works most often in Grangeville, which is a long way from places where people need to get to go if they are in serious danger. **Senator Schmidt** said it takes him minutes to about an hour to stabilize and treat the patient. But, oftentimes, the arranging and coordinating the transfer of the patient and finding a facility to receive the patient can take hours. **Senator Schmidt** said that is a symptom of a system problem that needs to be addressed and he believed **HCR 10** to be a first step for Idaho to begin to address the system.

MOTION:

Senator Schmidt moved that **HCR 10** be sent to the floor with a **do pass** recommendation. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

Senator Schmidt volunteered to carry both **HCR 6** and **HCR 10** on the Senate floor.

ADJOURNED:

There being no further business before the committee, **Chairman Heider** adjourned the meeting at 3:24 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, March 07, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>H 142</u>	Relating to Dentists	Michael Kane, Idaho Board of Dentistry Counsel
<u>H 188</u>	Relating to Patient Care Records	Toni Lawson, Vice President, Idaho Hospital Association
<u>H 211</u>	Relating to Physicians and Surgeons	Susie Pouliot, CEO, Idaho Medical Association

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 07, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:02 p.m. He asked the secretary to take a silent roll.

H 142 **Chairman Heider** welcomed everyone in the audience for coming and announced that the first item on the agenda is **H 142**, presented by Michael Kane, Idaho Board of Dentistry Counsel. **Mr. Kane** informed the committee that there was an amendment to **H 142**. He reminded the committee that when **H 142** was presented last Monday, Mr. Eiguren had some concerns and asked to have the bill held for a few days. He stated that those concerns have now dissipated. He also reminded the committee about questions from Senator Lodge about the Terry Reilly Clinic, and it turns out that there is a group of dentists that work for primary care 501(c)(3) nonprofit all over the state that we did not know about. In order to fix that, we are proposing an amendment. Where it previously was written in three places that: "...or professional limited liability managed care plan pursuant to chapter 39, title 41, Idaho Code," it is proposed to be changed in all three places to read: "...except for a dentist practicing dentistry as an employee or contracting dentist providing dentistry services to any health center as defined and authorized in section 330 of the public health service act as amended codified at 42 U.S.C. 254b."

We ask that you sent this to the amending order and we will get a better engrossed bill and a better amendment. That will take care of the 501(c)(3) nonprofit federally funded care clinics. There was another question about doctors and hospitals. We checked with the Idaho Medical Association and they approve the bill. **Mr. Kane** stood for questions.

TESTIMONY: **Elizabeth Criner**, Idaho State Dental Association (ISDA), stated that the ISDA agreed with the state board, and support the changes.

Roy Eiguren, President of Eiguren Public Policy Firm, thanked the committee for the indulgence provided to have his client, Pacific Dental Services, take another look at the legislation. He supported the change. He introduced Dr. Thompson from Eagle and Dr. Howard from Meridian, who were here to observe the process.

MOTION: **Senator Lodge** moved that **H 142** be referred to the 14th Order for amendment. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Lodge will carry **H 142**.

H 188

Toni Lawson, Vice President of the Idaho Hospital Association, presented **H 188**. She indicated that in July 1012, some changes were made to regulations from the Center for Medicaid and Medicare Services that streamlined regulations. New rules have created an inconsistency with the existing Idaho Code and federal regulations, and has caused problems for hospitals trying to meet requirements of the Joint Commission certification process. Simple language is being added to Idaho Code § 39-1394, that currently states that orders for treatment for a patient must authenticated by the author of the order. This bill would add language that would extend that to another practitioner who is responsible for the care of the patient and who is authorized to write orders by hospital policy in accordance with state law to authenticate the order.

She furthered that an example of how this may play out in hospitals is there are physicians who often work seven days on and have seven days off or cover services in a hospital as part of a group practice. If a physician gives a verbal order, transitions someone in their practice to care for that patient and then leaves, that person taking over the care of the patient cannot authenticate that order. We would have to track down the physician who gave the verbal order or wait until the physician returns before we can authenticate that order. This new bill is an improvement, allowing for better quality and quicker authentication of this order. **Ms. Lawson** then stood for questions.

Vice Chairman Nuxoll inquired what was happening before now. **Ms. Lawson** replied that orders have always been authenticated, but previously, only the physician who gave the verbal order could later authenticate that that was the correct order in the patient record. Now, the physician that gave the order or the physician that was currently responsible for the care and treatment of that patient can look at the order and authenticate that that is the correct order for that patient.

MOTION:

Senator Bock moved that **H 188** be sent to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**. Senator Schmidt will carry **H 188**.

H 211

Susie Pouliot, CEO, Idaho Medical Association (IMA), presented **H 211**. This legislation authorizes the Idaho Board of Medicine (BOM) to share information about physicians and surgeons with the Department of Labor (DOL), to facilitate the development of a health care workforce database, which will assist in analysis, planning, determining educational programming for the future, and recruitment and retention of health care providers. **Ms. Pouliot** furthered that this type of information will be especially helpful to ensure that there is an adequate health care workforce in the future, especially in the rural areas. The BOM has information about physicians it licenses, but it is not necessarily an indicator of where and if those physicians are practicing in the state of Idaho. Because it is difficult to obtain a medical license, it is common that when a physician gets a license in a particular state, they hold onto that license, even if the physician is no longer practicing in that state or no longer actively practicing in the state in which they reside. While there may be a large number of physician licenses, it does not mean that they are providing care. The DOL has information about people who are working in Idaho and drawing a paycheck for doing so. This will allow the BOM to share information and cross-reference with the DOL, to accurately identify which physicians are practicing and where.

Ms. Pouliot informed the committee that the governor has an Idaho Health Profession Education Counsel that has been working in partnership with DOL to develop this database. They have achieved the transfer of information between other licensure boards and the DOL. This legislation would specifically authorize the BOM to share information DOL, because there was some question as to whether they had that authority or not. Moving to the language of the bill itself, the legislation amends the powers and duties of the BOM, found in section 54-1806, Idaho Code. On page 2 of the bill, there is a new subsection 13 added, that specifically allows the BOM to share with DOL personal identifying information. This information shall remain confidential and is not subject to public disclosure, as required in section 9-340C, Idaho Code. Section 9-340-C of Idaho Code pertains to records that are exempt from public disclosure and both the BOM and DOL are subject to the provisions of that statute.

Ms. Pouliot stood for questions.

Vice Chairman Nuxoll stated that she was assuming the information being shared was about the doctors in the area. **Ms. Pouliot** confirmed that was correct; the information that is being shared is personal identifiable information about physicians, including social security numbers, which the Idaho BOM and the Idaho DOL already have. In that sense, there is no exchange of new information, but rather a cross-reference of information that both agencies already have. **Ms. Pouliot** stated that the IMA represent physicians from across the state of Idaho whose information is going to be shared and they are very supportive of this process because the development of this database is so critically important.

Vice Chairman Nuxoll then asked if the doctors are asked if that information can be shared at the time. **Ms. Pouliot** answered that each of the agencies already had the information. **Vice Chairman Nuxoll** asked for confirmation that doctors are not being asked at the time if they want to share information, and also if the information of each department was confidential. **Ms. Pouliot** stated that she would answer the second question first. There are already provisions in state statute that require both of those agencies to keep that information confidential. This issue was brought before the IMA House of Delegates, which is our large statewide meeting that we have annually. Our physicians asked us to move forward with this legislation that would proactively speak for the BOM to share information with the DOL.

Senator Hagedorn asked for confirmation that the IMA is in support of this as well. **Ms. Pouliot** replied that the IMA is, and is the one sponsoring the legislation.

Senator Lakey commented on the lack of consent from the doctor involved. He pointed out that there is a limited population as far as licensed doctors go, and that they understand the importance of this program. How difficult would it be to get some type of consent form to authorize the sharing of information? **Ms. Pouliot** replied that she could not speak to the undertaking, but we feel we are a very member-driven organization and we proceed with our agenda based on what our physician members ask us to do. She could not speak to how the physicians could consent to each of these entities having their information in the first place, but wanted to stress that this was not a disclosure of new information. This information is already in place with the BOM and within the DOL. It is simply a cross-reference of existing information to be able to accurately identify those people. Our own members whose information is being shared have been very supportive of this process.

Senator Guthrie pointed out that on the thirteenth paragraph, it states: "Share with the department of labor personal identifying information..." He asked what identifying information meant. Is the goal to establish how many doctors there are in the state to identify shortages, as well as specialties in which there are shortages? **Ms. Pouliot** replied that the type of information that is being shared is the social security numbers, which both entities already have. With respect to the database, if we can track where physicians are practicing and how much, that will allow us an accurate picture that we don't have now. We need to know where the shortage areas are in order to make educational programs more regularly available and explain other opportunities for recruitment and retention so we can get physicians to those areas. The database would include information about those physicians, specialties, where they practice, how often they practice and in what geographical area they practice.

Senator Guthrie inquired to what extent are their earnings shared. **Ms. Pouliot** responded that the DOL already has that information and it would not be shared back with the BOM. This proactively allows the BOM to give the physician's identifying information to the DOL. The DOL already knows who is making what.

Senator Hagedorn asked Chairman Heider if there were further testimony from the BOM on the sign-in sheet. **Chairman Heider** stated there was no one else.

Senator Hagedorn asked how the DOL would know how much a doctor makes. He indicated that he is hesitant to go forward with this bill without someone from the BOM who is not a state agency, but a pseudo-managed state organization to collaborate with the DOL, who is a state agency. He needed more information.

Ms. Pouliot apologized if she created confusion. She indicated that the BOM will not be receiving any information regarding physician income. She could not speak to the level of information that the DOL has, but knows they have collaborated with several other licensure boards, such as the Board of Nursing and other professionals, to create this database. The BOM had hesitation that they were allowed to share identifying information with the DOL, and the IMA, by our membership, was asked to intervene and bring legislation to clarify that the BOM does have authority to share this information with the DOL for the purposes of creating this database.

Senator Hagedorn stated that hearing that the Board of Nursing currently does this made him feel better, and he wondered if that were in statute. **Ms. Pouliot** said she knows other licensure boards have participated in this process and have shared information; she did not have an exhaustive list of the boards that were participating, but knows the Board of Nursing was one of the boards. Their legal counsel with their board felt that they did have the existing authority to share that information. The legal counsel of the BOM did not feel they had that their board had the authority to share that information, and that is why she was before the committee today.

Senator Hagedorn asked if there was someone at the meeting from the DOL that could testify in this matter. **Chairman Heider** then asked the audience if there was anyone from the DOL. **Senator Bock** stated that he thought he had a response for Senator Hagedorn. He pointed out to the committee that we all filed forms with the DOL for unemployment insurance. As a result, the DOL knows how much all of us make in one way or another. If you have employees, you have to provide social security numbers. On the basis of how much they made, the employment tax is paid. Nothing new is going to be created with the DOL as a result of this.

Senator Lakey asked Ms. Pouliot for confirmation that there is no new information that is being shared. Are they just cross-referencing the same information, or is there different information from each of them that is being shared? **Ms. Pouliot** replied that that was precisely the process. The BOM has a list, say, of 4,000 physicians who have licenses to practice within the state of Idaho. The DOL has a list, say, of 3,000 physicians who are working in the state of Idaho. They have social security numbers of these people, as does the BOM. They cross-reference to see that of the 4,000, there are 3,000 that are actually working in the state.

Senator Lakey stated that if they are cross-referencing the same information, and that both the BOM and DOL have the same information. There is no exchange of new information, was that correct. **Ms. Pouliot** replied that was correct, but she wanted to clarify the term cross-reference. She did not necessarily mean that the DOL is giving information to the BOM, but rather that the BOM provides information to the DOL, and that is where the cross-referencing takes place. This is information that the DOL already has; the BOM is not receiving any information.

Senator Lakey asked that the information coming from the BOM that is going to the DOL is information that the DOL already has and already has permission to have, and just cross-referencing that. **Ms. Pouliot** stated that was correct.

Ken McClure, attorney for the Idaho Medical Association, offered to answer any questions the committee may have. **Senator Guthrie** asked if the information is a one-way exchange, how does that help the BOM, hospitals, and the health care providers fill different specialty groups? **Mr. McClure** responded that the DOL is putting the database together for a number of different allied health professions. The purpose for doing so is to establish a government database of where there are shortages of those practitioners. Once a person has a professional license, it is precious, so there are professional licenses held by people who don't live in Idaho, but yet they have an Idaho medical license. There will be those who are mostly retired, but not completely, and they won't want to give their license up. The BOM has all of the information on who is licensed to be a doctor in Idaho. The DOL has a multitude of identifying numbers in their database, but they don't know which ones of those are doctors. This will show where there are doctors, and more importantly, where there are not doctors, so we can qualify for grants and funds that are available to address those shortages. That is the purpose of this legislation. This will allow them to come up with a database, as they have for all the other allied professions, so we can then qualify for funds that are available for improvement and retention, etc., so we can get physicians into those shortage areas.

He furthered that the DOL creates the database. The attorneys on the BOM indicated that they cannot assist in that process because their statute does not allow us to do that. They are coming forward to ask the legislature for permission. The database is created out of information the DOL has, and they simply don't know where the doctors are.

Senator Hagedorn stated that he is passionate about getting more doctors into the state of Idaho. He is concerned that not all of these doctors know that their individual information that they registered with the BOM is now being shared. Are they aware of that when they register? **Mr. McClure** replied that the doctors are aware when they file their income tax return that the Tax Commission has that social security number. They are aware when they file with the DOL for unemployment insurance that the DOL has that number. They are aware that the BOM has that information. But as to whether they are aware that the BOM is going to talk to the DOL and create a database, **Mr. McClure** stated that he did not know. But he indicated that the DOL already has each bit of information that the BOM has. He could not answer with certainty that the doctors are asked specifically about awareness of the database.

Senator Hagedorn asked how burdensome it would be to send an email or a message to the doctors who are registered, to get their authorization. **Mr. McClure** stated that he understood the concern, but the information is already there. As to how hard it would be, assuming a person could send out 4,000 communications, a database would have to be created within the BOM to reflect those who have responded and those who have not. It is possible to do this, but our view of this is since both the BOM and DOL have this information - there is no additional extension of information - and that the statute is very explicit that each of them who already possesses that information, must treat it as confidential and with nondisclosure, and frankly, we felt that it was an unnecessary step.

Senator Hagedorn stated that when he does business with the Tax Commission, he trusts that Tax Commission will not share his business with the Governor's Office or any other entities. He has that same assumption when he does business with the DOL, unless he is told otherwise. If he were a doctor and did business with the medical board, he would assume that trust exists, unless he is told otherwise, and that is where he has concern. The trust and credibility of the BOM will be compromised if doctors are not told that their information could be shared with the DOL or another department.

Mr. McClure stated that he understood that, and he wished he could give a better level of comfort. However, he furthered that there is a balance between the privacy of the individual and the efficiency of government. He stated that what Senator Hagedorn is suggesting is that the balance should be struck in favor of the privacy of the individual. If the sharing of information was with someone who did not already have it, then **Mr. McClure** stated he would be sharing the same concern. But in the case where that information already exists, he is disagreed with Senator Hagedorn, because in order to allow this to occur, a significantly burdensome effort is created and he has not heard a physician say that he wants to be asked first.

Senator Schmidt stated that if a person were to go to the Idaho BOM web site, there is a link to IDACARE, which lists the statute that says physicians will share information about their practice, and the physician is required each time they renew their license to update information on this public web site. It is public information. He commented that this discussion reflected the discussion that was at the Idaho Medical Association House of Delegates in terms of physicians being asked to share information. It made more sense the more the group talked about it. As far as permission goes, it may be difficult to get permission from people who are not actively practicing, and those are the ones that need to be counted. That is part of why getting permission would be quite difficult.

Senator Bock informed the committee that he successfully passed the California bar exam in 1979 and the Idaho exam in 1982, and hung onto his California license. He expressed his thought that there are lawyers who are licensed in Idaho but are living elsewhere, and it is a similar scenario with doctors.

Vice Chairman Nuxoll commented that she would like to doctors giving their permission for such a sharing of information. While there may be information on each side, the purpose is different for what we are doing here. She stated that if she were a doctor, she would want to be asked her permission because she may not agree with what her information is being used for.

MOTION: **Senator Bock** moved that **H 211** be sent to the floor with a **do pass** recommendation. **Senator Martin** seconded. **Vice Chairman Nuxoll** stated she would like to propose a substitute motion, that **H 211** to the amending order. It was not seconded, and the substitute motion died for lack of a second. There was a return to the initial motion that **H 211** be sent to the floor with a **do pass** recommendation. **Chairman Heider** asked for a roll call vote. **Chairman Heider and Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt** voted aye. **Vice Chairman Nuxoll** voted nay. The motion carried. **Senator Bock** will carry **H 211**.

ADJOURNED: There being no further business to come before the committee, **Chairman Heider** adjourned the meeting at 3:48 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #2
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, March 12, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>H 214</u>	Relating to Putative Fathers	Rob Luce, Administrator of Family & Community Services, Department of Health and Welfare

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, March 12, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:01 p.m.

H 214 **Chairman Heider** said **H 214** relates to putative fathers and would be presented to the committee by Rob Luce, Administrator for the Division of Family and Community Services, Department of Health and Welfare.

Mr. Luce said **H 214** is an act relating to adoptions and putative fathers (men who claim to be the biological father of a child born out of wedlock). The committee has visited the issue in the past. There was a print hearing that became a bill. When it was printed as a Senate bill, it was found that certain changes that had been contemplated did not make it in. Along with constituent concerns and a few other changes that needed to be made, it was determined it was time to start all over again. Rather than redo the bill, it was decided to start again – this time on the House side. **Mr. Luce** said this particular bill can be as simple or as complicated as one likes. It can conjure up all kinds of philosophical debates – debates on abortion, debates on biological mothers' rights versus biological fathers' rights, debates on whether or not this bill will increase more adoptions or fewer adoptions, etc. Or, this bill could be a no-brainer – and that is what it turned out to be for those who spent time drafting it. **Mr. Luce** said **H 214** is a bill that favors children in Idaho and is a bill that is in the best interest of those children. **Mr. Luce** said it is not about abortion, it is not about the biological rights of one parent over another's – it is solely about strengthening adoptions in Idaho and reducing the risks that an adoption will be overturned on the grounds that we currently have laws that favor one parent over another. This bill has been in the works for nearly five years – maybe longer. **Mr. Luce** said **H 214** is the result of work done – with leadership provided by Senator Davis – by himself; Idaho Falls attorney Wiley Dennert; Salt Lake City attorney David McConkie, who is general counsel for The Church of Jesus Christ of Latter-day Saints; esteemed domestic relations Boise attorney Stanley Welsh, who has practiced law for about 50 years; and many others who are extremely bright in this area of the law. Is it perfect? **Mr. Luce** said he would venture to say that the jury is still out on whether it is perfect or not. But, is it a good bill; is it the right bill? **Mr. Luce** said he thinks it certainly is. Is the time right? **Mr. Luce** said yes, that is for certain. **Mr. Luce** said if **H 214** is passed, it will not only further the best interest of the child, but it will clarify in Idaho law that putative fathers have to strictly comply with the law in order to protect their rights. It will also establish a date certain within which putative fathers must act in order to protect their rights; it will establish one exception to that date certain; and it will direct the department to produce a pamphlet and host, on the world wide web, a public

service announcement that will actually explain the law in this area. **Mr. Luce** continued his presentation with a slide show (See Attachment 1.)

Senator Bock apologized for interrupting and said he was looking for a clear definition of putative father in the bill and asked if it is in some place in there. **Mr. Luce** said he did not believe it is in Idaho Code. **Senator Bock** asked if that would be wise. **Mr. Luce** said the authors of the bill could put that in code, but that he did not know if it was reason enough to hold up the bill. **Vice Chairman Nuxoll** asked what the "date certain" is. **Mr. Luce** said the date certain is for a father to protect his rights. In the general case, it is the date that the petition is filed to terminate the mother's parental rights. For example, if a child is born Sunday morning, most attorneys and most agencies would have the papers to terminate the mother's parental rights when the courthouse opened on Monday morning. **Mr. Luce** said the general rule is that it is "a race to the courthouse" because if a mother has decided to give up her baby for adoption, the paperwork would have already been created and all that would be needed for that paperwork was the child's birth date. Once those adoption papers are filed, if the father has not commenced paternity proceedings and put his name on the putative father registry, his rights are cut off. **Senator Schmidt** asked – in regard to "lack of knowledge of the pregnancy is not an acceptable reason for his failure to timely file" – if a putative father did not know of the child and did not file a petition, does that mean he has surrendered his rights? **Mr. Luce** said that is correct, but is not new in either Idaho Supreme Court case law or U.S. Supreme Court case law. It is a restatement of current law. **Senator Lakey** asked, in the scenario in which a mother takes off before the child is born, what a father must do to protect his rights. **Mr. Luce** said at the particular point in time when the father finds out, he must prove, by clear and convincing evidence, that it was not possible for him to commence proceedings to file with the putative father registry – it was through no fault of his own. **Senator Lakey** asked about the putative father registry. **Mr. Luce** said the putative father registry is a registry maintained by the Department of Health and Welfare Vital Statistics Unit. It is a one-page document and is not a burdensome or expensive process. **Mr. Luce** said the commencement of paternity proceedings would be more onerous.

Senator Bock said the verbage "through no fault of his own" seemed to be inconsistent with "lack of knowledge of the pregnancy is not an acceptable excuse" and asked how that works. **Mr. Luce** said it is a very limited and case-specific driven for a court to decide whether an individual will fit into that or not. The situation trying to be addressed can be best described by three cases that occurred in Utah last year. Last year, the Utah Supreme Court – for the very first time in maybe twenty years, certainly ten – unwound not one, but two adoptions involving putative dads. A district court unwound a third in the span of less than eleven months. All were on the grounds that the fathers were defrauded. One involved a military officer whose name was on the birth certificate. Four years later, the court unwound that adoption. Another adoption that was unwound involved a mother who not only defrauded the father, but misrepresented to the court the facts of the father's involvement, where he was, what she had told him about the pregnancy and what she intended to do. **Mr. Luce** said how this will play out – or for him to even predict how this is all going work – he does not know. **Senator Bock** asked if there are any standards for the courts to use to determine the father has provided "clear and convincing evidence." **Mr. Luce** said the language in **H 214** has been tested by courts in at least three states. **Senator Hagedorn** asked where the "ten days" number came from and if it is a standard number. **Mr. Luce** said the number was a compromise from what other states have done in the area of putative father registries. States across the country have gone anywhere from thirty days to seventy-two hours. Uncertainty in adoptions is a very bad thing – thirty days could be considered too long, seventy-two hours too short.

Chairman Heider thanked **Mr. Luce** and asked him to proceed with his slideshow presentation.

Mr. Luce said the authors of the bill did not want adoptions overturned in Idaho for the reason that state laws favor what is quick over what is right. This legislation addresses those issues, it adds clarification and consistency, it strengthens adoptions and it reduces the chances that Idaho will see adoptions unwound.

Vice Chairman Nuxoll asked Mr. Luce to explain the pamphlet and the registry. **Mr. Luce** said the registry is the result of a US Supreme Court case that came out of the state of New York. After that case came out, every state ended up with a putative father registry as a way for fathers to protect their rights. **Vice Chairman Nuxoll** asked, if a father signs up in that registry, does it mean he wants to retain his rights? **Mr. Luce** said it is one of two things a father must do to protect his rights. He must sign on the registry and commence paternity proceedings. **Mr. Luce** said the pamphlet is going to go into what the law is and what fathers must do if they want to protect their parental rights. **Senator Schmidt** asked for clarification to the verbage "either parent" or "both parents" must be involved in the proceedings to establish paternity. **Mr. Luce** said that is correct – it is either or both. **Vice Chairman Nuxoll** asked how long a putative father has to establish his rights. **Mr. Luce** said some folks would say a father has the entire term of the pregnancy to put their name on the putative father registry and commence paternity proceedings and, in fact, that is true.

Chairman Heider asked if anyone in the audience wanted to speak. **Chairman Heider** thanked Mr. Luce for this attendance and said he had given a very good explanation of **H 214**.

MOTION: **Senator Martin** moved that **H 214** be sent to the floor with a **do pass** recommendation. **Senator Schmidt** seconded the motion.

DISCUSSION: **Senator Bock** said he had trouble agreeing that **H 214** protects fathers and that he thought it went too far, too fast and required a putative father to do impossible things to protect his rights. **Senator Bock** said there needed to be a bill that provides the putative father with a chance to assert his rights. **Senator Bock** said **H 214**, as he sees it, takes those rights away, that he will be voting against it and asked for his vote to be recorded.

ROLL CALL VOTE: **Chairman Heider** called for a roll call vote. **Chairman Heider, Vice Chairman Nuxoll, Senator Lodge, Senator Hagedorn, Senator Guthrie, Senator Martin, Senator Lakey** and **Senator Schmidt** voted aye. **Senator Bock** voted nay. The motion carried.

Chairman Heider told the committee that Senator Davis had asked if he could carry **H 214** to the Senate floor. The committee did not object.

ADJOURNED: There being no further business before the committee, **Chairman Heider** adjourned the meeting at 3:44 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, March 14, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the January 24, 2013 Meeting	Senators Martin and Schmidt
Minutes Approval	Approval of the Minutes of the February 6, 2013 Meeting	Senators Martin and Schmidt
Minutes Approval	Approval of the Minutes of the February 18, 2013 Meeting	Senators Hagedorn and Lakey
Minutes Approval	Approval of the Minutes of the February 20, 2013 Meeting	Senators Martin and Bock
Minutes Approval	Approval of the Minutes of the February 27, 2013 Meeting	Senators Martin and Bock
Minutes Approval	Approval of the Minutes of the March 6, 2013 Meeting	Vice Chairman Nuxoll and Senator Lakey
S 1135	Relating to Medical Discipline; Licensees	Nancy Kerr, Executive Director, Board of Medicine

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 14, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the Health and Welfare Committee to order at 3:00 p.m., and a silent roll was taken.

MINUTES: **Chairman Heider** asked for the approval of the January 24, 2013 meeting minutes.

MOTION: **Senator Martin** moved to approve the January 24, 2013 minutes as written. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the February 6, 2013 meeting minutes.

MOTION: **Senator Martin** moved to approve the February 6, 2013 minutes as written. The motion was seconded by **Senator Schmidt**. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the February 18, 2013 meeting minutes.

MOTION: **Senator Hagedorn** moved to approve the February 18, 2013 minutes as written. The motion was seconded by **Senator Lakey**. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the February 20, 2013 meeting minutes.

MOTION: **Senator Lakey** moved to approve the February 20, 2013 minutes as written. The motion was seconded by **Senator Bock**. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the February 27, 2013 meeting minutes.

MOTION: **Senator Lakey** moved to approve the February 27, 2013 minutes as written. The motion was seconded by **Senator Bock**. The motion carried by **voice vote**.

MINUTES: **Chairman Heider** asked for the approval of the March 6, 2013 meeting minutes.

MOTION: **Senator Lakey** moved to approve the March 6, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

S 1135 **Relating to Medical Discipline; Licensees.** **Nancy Kerr**, Executive Director of the Board of Medicine, informed the committee that this legislation proposes changes to section 54-1814, the Medical Practice Act, grounds for discipline, and it adds additional grounds for discipline. Every person licensed to practice medicine, licensed to practice as a physician assistant or registered as an extern, intern or resident in this state is subject to discipline by the Board of Medicine (Board). The first addition provides the Board with the statutory authority to ensure the ability of its licensees to practice medicine with reasonable skill and safety subsequent to being convicted of or pleading guilty to drug or alcohol related criminal charges, such as driving under the influence. The second addition states that failure to comply with a board order entered by the Board will be grounds for medical discipline. **Ms. Kerr** informed the committee of a Supreme Court case, *Wright v. Board of Psychological Examiners*, that specifically said that the Board's

enforcement authority for board orders must be clearly stated. The purpose of the change to Idaho's medical discipline is to provide clarity. She stood for questions.

Senator Bock commented that the changes were good. However, he indicated there were many cases where people are charged with Driving while Under the Influence (DUI), the DUI is then reduced to a lesser charge, and this proposed change does not address that. He expressed that those cases are as equally important as those where there was a conviction with a guilty plea. He asked Ms. Kerr for her thoughts.

Ms. Kerr replied that she spoke about this once before, and this was one of the issues that came up at that time. The concern at the time was that the charge could be pleaded down to a lesser charge. That was considered. These would be beyond that first occasion of a DUI.

Vice Chairman Nuxoll asked what the discipline would be.

Ms. Kerr responded that, hopefully, discipline could be avoided. A third charge of DUI is a felony in Idaho. That could revoke a physician's license, they would be unable to obtain or maintain Board certification or hospital privileges; the impact is tremendous. She stated that the goal is to get a physician into an evaluation and treatment program.

Senator Lakey asked Ms. Kerr to explain the second addition of language, and asked if this matter has come up before, as it looked familiar.

Ms. Kerr responded that she believes he is referring to the disciplinary case related to that Supreme Court decision.

Senator Lakey stated he was not sure, but if she wanted to expound on that, he was wondering about the scope of things that the Board issues orders for, and asked her to provide an example.

Ms. Kerr responded that the Board issues orders for violations of the Medical Practice Act, 54-18, related to the standard of care. Generally, Board orders are related to the practice of medicine, criminal convictions and disciplinary actions.

Senator Lakey asked what the two sentences were on the case that Ms. Kerr referred to.

Ms. Kerr replied that this was from a different disciplinary board, the Bureau of Occupational Licenses that handles the psychological examiners. She remembered that it was related to the board enforcing some requirements. There was a requirement that a particular provider in this case pay some fees relating to the initial case that came before the Board, and that they entered an additional order for the failure to pay fees.

Chairman Heider asked how the Board responds on the first offense.

Ms. Kerr replied that the Board takes all charges very seriously. If there were some indication of drug diversion or if they were investigating a physician suspected of having a problem with drugs or alcohol, and DUI charges were filed, that would obviously be more serious in comparison to someone who drank a little too much at a party and made the poor decision of getting behind the wheel. All of those decisions affect the public adversely.

Senator Hagedorn asked if this has come before the committee before, because it seemed familiar.

Ms. Kerr replied that the perhaps it was the discussion of rules of full disclosure of charges related to drug or alcohol that made this sound so familiar.

TESTIMONY: **Molly Steckel**, Policy Director of the Idaho Medical Association, voiced support of this bill. She indicated that they had work with the Board of Medicine, and physician members are in support.

Chairman Heider stated that the bill was before the committee.

MOTION: **Senator Hagedorn** moved that **S 1135** be sent to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business before the committee, **Chairman Heider** adjourned the meeting at 3:15 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, March 18, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>HCR 17</u>	Relating to Docket No. 16-0720-1201, Section 009, Subsection 01 rejection	Representative Wood
<u>HCR 19</u>	Relating to the Findings of the Legislature and Encouraging the Inclusion of Nutrition Services as an Integral Component in the Prevention and Treatment of Chronic Disease	Representative Romrell
<u>H 98</u>	Relating to Medical Indigency	Anthony Poinelli, Deputy Director, Idaho Association of Counties
<u>H 239</u>	Relating to Pharmacists	Mark Johnston, Executive Director, Idaho Board of Pharmacy

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, March 18, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Hagedorn, Guthrie, Martin, Lakey and Bock

ABSENT/ EXCUSED: Senators Lodge and Schmidt

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 3:03 p.m. and welcomed the audience. He asked the secretary to call silent roll. He announced a Joint Senate and House Health and Welfare meeting on Friday, March 22, to discuss Medicaid expansion and the elimination of the Catastrophic Fund. This meeting is to be an informational meeting only and no public testimony will be taken. He stated that first on the agenda was **HCR 17**; however, Representative Wood, who was supposed to present the resolution, was absent. He moved to **HCR 19** and welcomed Representative Romrell to the podium.

HCR 19 **Representative Romell** presented **HRC 19** relating to the Findings of the Legislature and Encouraging the Inclusion of Nutrition Services as an Integral Component in the Prevention and Treatment of Chronic Disease. **Representative Romrell** stated that he was honored to represent dieticians; he worked with them in the past when he was a hospital administrator. The talking points he presented were provided to him by the dieticians. This is a concurrent resolution and its sponsors are himself (Representative Romrell), Representative Wood, Representative Perry, Senator Heider, and Senator Lodge.

There is no fiscal impact. **Representative Romrell** stated they believe they can save health care costs while helping Idahoans achieve better health. Registered dieticians in Idaho are trained medical professionals who are licensed through the Idaho State Board of Medicine. The Idaho Academy of Nutrition and Dieticians is ready to be a team player in working with other health care professionals such as physicians, physician assistants and nurse practitioners to incorporate nutrition and nutrition services into the treatment of chronic diseases. He stated their goal is to have a seat at the table because they are passionate about their belief that healthy eating habits last a lifetime. The main purpose of this resolution is to showcase that people have a problem with physical inactivity and core eating habits in Idaho. One of their goals with this resolution is to increase awareness of the role that nutrition and physical activity can play as part of a healthful lifestyle. This concurrent resolution will also aid in writing and securing grants and foundation dollars for needed projects, interventions and research.

Representative Romrell stated he hopes to prevent obesity related diseases and dramatically reduce health care costs if they reduce the average Body Mass Index of participants by just five percent. By 2030, this would lead to a reduction of health care costs of 30 million dollars. Nutrition is a factor in preventing most chronic diseases such as diabetes, heart disease and cancer. According to a published survey, ninety-four percent of primary care physicians believe that nutrition is a significant factor in the prevention, treatment and management of chronic diseases.

Medical nutrition therapy produces improved clinical outcomes and reduces health care costs for individuals with obesity and diabetes. There is a documented reduction in hospital utilization when medical nutrition therapy is provided to patients with diabetes and cardiovascular disease. Registered dietitians work in a variety of professions throughout Idaho in the private and public sector including health and wellness, hospitals, clinics, schools, skilled nursing and assisted living facilities, food companies, pharmaceutical companies, clinical research, public health, diabetes and cancer care, prevention, universities and colleges, and sports medicine.

MOTION: **Senator Martin** moved to send **HCR 19** to the floor with a **do pass** recommendation. **Senator Bock** seconded the motion. The motion carried by **voice vote**. Senator Lodge will carry **HCR 19** on the floor.

H 98

Anthony Poinelli, Deputy Director, Idaho Association of Counties, presented **H 98** relating to Medical Indigency. **Mr. Poinelli** stated **H 98** is coming forth from the Catastrophic (CAT) Health Care Cost Board (Board). As they looked at statute and various issues that have come before them, they felt some clarity was needed in the statute. Most of **H 98** contains clarifications. In section 1, dealing with the declaration of policy, he stated they are clarifying that dependents are included as part of individual responsibility. The reason for this stems from a couple cases that came before the Board this past year, involving individuals who were over 18, but still in school. There were serious questions about whether those individuals, as adults, were on their own. After they received various opinions from legal counsel around the state, the CAT Board felt that if the parents were claiming these individuals for income tax purposes, then the state or the counties shouldn't bear any responsibility for medical claims.

He stated that in section 2, there have been some changes to some of the definitions. Under completed applications, there have been some modifications to clarify what an obligated person is for the reason just mentioned. On page 4, section 23, involving reimbursement rate, they have extended the time line from July 1, 2013 to July 1, 2014 for the unadjusted Medicaid rate. Two years ago, the legislature put in 95 percent of the unadjusted Medicaid rate, which provided a 1.8 million dollar savings. Hospitals have agreed to extend this, and this provides about a 1.8 million dollar savings. The reason for this is because there is uncertainty about what changes may be coming in Medicaid. Under the definition of resources, there have been some clarifications because there have been questions raised over the past year by various organizations about when resources actually start. Since 1985, counties have been conducting investigations when they receive an application to consider indigency. During this investigation, they look at resources and when the application has been submitted. Everything is based around when the necessary medical services were received. In order to clarify this, we have stated here that the time frame starts when the necessary medical services are received. No matter the outcome of the investigation, everything is based around the time the necessary medical services were provided under resources for indigency determination.

Section 3 deals with medical records. There is a requirement in the statute currently that states that when a county submits a request to a provider for medical records, that provider must provide the documents to the county within ten days. The providers are having difficulties meeting the ten day deadline, so this bill allows for a thirty day extension. With this, if a provider cannot meet the ten day deadline, they then can notify the county and the county must grant them a thirty day extension. In section 4, there is a number of technical clean-ups. The very last section deals with billings. The intent of this language is to try to reduce some of the duplication that occurs as individuals send in medical bills. This is meant to benefit the providers as well as the counties regarding their paper work load.

Senator Bock noted that there is a lot going on in this field with regards to the Patient Protection and Affordable Care Act (PPACA) and the CAT Fund. He stated that when an individual turns 18, they are an adult, and their parents are no longer responsible for providing medical care for them unless they specifically sign a document assuming that responsibility. He can imagine a situation where an 18 year old gets in a serious accident and ends up in the hospital. If that person says their parents won't be paying and they can't be declared indigent for the purposes of the CAT Fund, it seems the hospital would not be paid. **Senator Bock** asked for a clarification about this part of the resolution.

Mr. Poinelli responded that if parents are still claiming their children as dependents on their tax returns after they turn 18, they should have some responsibility to cover medical expenses. If the claim is large, then they could still file for medical indigency. Part of that responsibility deals with reimbursement back to the county, which an 18 year old may have limited ability to do. This also deals with liens; if the parents are responsible then the county has the authority to file a lien on their property. This, he feels, is fair to the taxpayers for the counties to have that ability for purposes of collection.

Senator Bock stated that now he is even more concerned. Parents, who have no ability to control an 18 year old, are placed in the position to be responsible for them in this way. He doesn't think simply recognizing someone on a tax return should be the deciding factor; recognizing the benefits provided to the family when declaring a child as a dependent for tax purposes are relatively small compared to these consequences. **Senator Bock** asked where the legal basis is to make parents responsible for medical costs of an adult child.

Mr. Poinelli responded that he doesn't know if there is a legal basis or not. There is a requirement that students attending colleges and universities have insurance either on their own or through their parents. The Board wanted to carry that idea forward because someone needs to have some responsibility. **Senator Bock** stated that he understands where this responsibility fits into an ethical framework, but legal responsibility is different. He asked what happens to a million dollar hospital bill of a patient who is 18. The parents are not legally responsible for the debt and it seems it may be easy enough for an 18 year old to file bankruptcy and dispose of the debt. **Mr. Poinelli** responded that in all likelihood, an application would be submitted, either by the patient or by a third party. The county commissioners will investigate the case and make a determination of indigency. If they are found indigent, then the county will pay the first eleven thousand dollars and the rest will come out of the CAT Fund. The responsible party will have to pay the bill if they are able to pay it off in sixty months.

Senator Lakey stated he was comfortable with considering the parents' income when determining whether or not a person is indigent. He is more uncomfortable with the possibility that after a payment is made, a lien is placed on the parents' house. He asked **Mr. Poinelli** to respond. **Mr. Poinelli** replied that the determination of indigency is based on the applicant or whoever files on behalf of the applicant. If there is potential that some payments could be made by a family member, the law currently allows for a lien to be filed. The law allows for an individual to pay the reimbursement, if possible, and a lien placed on any property they own. He stated he wanted to make it very clear that he is not aware of any county in the state of Idaho that has ever kicked anyone out of their house. If there is a sale on the property, then the individual has the opportunity to settle with the county; that has happened. **Senator Lakey** asked if some counties are currently filling liens on parents' property if the child is 23 and going to school and being claimed as a dependent. **Mr. Poinelli** responded no they are not. Somebody has to have some responsibility at some point. This should be the parents; particularly, if they are claiming their child for tax purposes.

Senator Martin stated that they have been using the ages 18 and 23 as examples, and then asked if age mattered when claiming a child as a dependent. **Mr. Poinelli** responded that if someone claims someone else as a dependent, but they are clearly an adult, there could be some responsibility placed on the person claiming the dependent. **Senator Martin** asked for a clarification that it doesn't matter what the age of the person is. **Mr. Poinelli** responded that was correct. He focused on the age of 18 years because the Board hasn't had any experience with anyone over that age. **Senator Martin** stated that he heard Mr. Poinelli say that the counties are not currently doing liens, and asked if this passes could they start doing them.

Mr. Poinelli responded that the counties are currently doing liens on any applicant. By law, they are required to file an automatic lien within thirty days of the application for necessary medical services. He was referring earlier to the counties forcing people to sell their property, which is not happening. **Senator Martin** referred to language on page 4 and page 8, "starting on the date of necessary medical services are first provided." He asked Mr. Poinelli to clarify what this is referring to. **Mr. Poinelli** responded that when a county receives an application and begins an investigation, it is usually a minimum of thirty days after services were provided. Then it goes to the Department of Health and Welfare for their determination of eligibility for Medicaid. It then comes to the county so there could potentially be seventy-five days after services were provided. The law has always been that the process starts when necessary medical services were provided, so the county has to take a retroactive look at the individual to determine whether they are indigent and whether they have resources to pay. They look at the window between that time and the case is determined. **Mr. Poinelli** stated they are trying to clarify here that the process begins when services are received.

Senator Guthrie asked if the child was wealthy and the parents were broke, would the counties come after both parties and could they place a lien on the parents' house. **Mr. Poinelli** responded that the first thing the county commissioners do is look at the applicant. If the applicant has the ability to pay, then there is no need to look to other parties such as the parents. **Senator Guthrie** referenced the concerns of Senators Bock and Lakey and stated that by the definition of dependent, the individual depends on the parents and he sees no problem with having the parents be responsible for them. However, because this is something new, there may be a need for an effort to inform people of this. It may be reasonable for a parent to claim their child as a dependent, but they may not understand that they are taking on this responsibility in doing so. He asked if there were any educational efforts to inform people because there could be potential problems.

Mr. Poinelli responded that there would have to be an educational effort. That effort needs to take place at two different levels, in his view. The first is the county level. People should be informed when they come in to fill out a non-emergency application. The county indigency director can help with an educational effort. The other level should be at the hospital where a lot of applications come in, as third party applicants, where the hospital files on behalf of the individual.

Senator Lakey inquired about third party applications. **Mr. Poinelli** responded a significant majority are third party applications. **Senator Lakey** asked if a person in the hospital did not want to submit an application, and neither did the parents of the person, could the hospital still do it. **Mr. Poinelli** responded that the hospital has the authority by statute to file an application on behalf of the person in order to protect their interest. The individual doesn't necessarily have a say in the matter unless they cooperate and most of the time they do. The individual doesn't have the ability to withdraw; if they did, the providers would have an opportunity to file. **Senator Lakey** stated that he is uncomfortable holding parents accountable under third party applications.

Senator Hagedorn inquired if the Idaho Hospital Association had weighed in on this and if they had commented on the changes made on page 6, lines 38 through 40. **Mr. Poinelli** responded that they had weighed in. They testified in favor when this bill was before the House. The changes made in this section were made at their recommendation to provide more time for them to submit medical records to the county.

Senator Bock inquired if anything in this bill changes the status quo with regards to liens. **Mr. Poinelli** responded that was correct; there are no changes to liens. **Senator Bock** asked when Mr. Poinelli talks about the liens and the potential parental responsibility, if he is talking about the way the law is currently, without the passage of this bill. **Mr. Poinelli** responded that the CAT Board doesn't have any way to suggest that people are dependent for the purposes of collecting payment for medical claims. If someone is claimed on someone else's taxes, then it seems there is someone who wants to have some responsibility for that person. The question is should the county and the state bear the ultimate responsibility.

Senator Lakey inquired if the change in the definition of obligated person on page 3 is what takes the parents of a dependent into the lien world. **Mr. Poinelli** responded that the obligated person could be the applicant or the parents of the applicant.

DISCUSSION:

Senator Bock stated that he believes Senator Lakey has hit on some points that are concerning. He is not automatically predisposed to killing the bill, but he would like some reassurance, prior to a vote on the floor, that people who are not legally responsible are not getting shoehorned into assuming this responsibility. **Senator Bock** referenced page 3 lines 42 to 44: there seems to be an ambiguity with the reference to someone who is legally responsible, but that may not include the parents. It seems that the ambiguity may create problems for the counties in the future that will need to be addressed.

Senator Hagedorn commented on the same lines in the bill. He stated most of this was existing language and he hasn't heard any complaints about using the lien system. It has been a standard operating procedure for many years. The added language states "including, but not limited to, parents of minors or dependents," which better clarifies that line. He thinks the lien issue is a separate issue and, if it is a problem, then he would expect the counties or individuals to come forward, but he hasn't heard complaints. **Senator Bock** responded to Senator Hagedorn and stated that he thinks the existing language is fine. It is common sense that the only person obligated is a person who is legally responsible. There may be various ways a person can become legally responsible for another person; for example, upon admittance to the hospital, a person signs a document saying they are responsible for the treatment of their 19 year old son or daughter. However, by suggesting that a person is legally responsible for the medical expenses of another person simply because they have claimed that person as a dependent for tax purposes, creates an ambiguity. Dependents, in general, are not necessarily the legal responsibility of the parents, even though they have been declared as dependents on a tax form.

MOTION:

Senator Guthrie moved to send **H 98** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion. Speaking to the motion, **Senator Guthrie** commented that the health care system has issues. When people present as indigent it effects providers as well as county and state tax payers because of the choice they have made to not purchase insurance. He thinks that when a parent claims their child as a dependent after they have turned 18, that is an indicator that they would like some responsibility for them.

SUBSTITUTE MOTION:

Senator Bock made a substitute motion to hold **H 98** in committee to a date certain, and suggested Thursday. He stated that would give Mr. Poinelli some time to get them some more background on the bill before they sent it off to the floor. **Senator Lakey** seconded the motion.

**ROLL CALL
VOTE:**

Senators Heider, Martin, Lakey, and Bock voted aye. **Senators Hagedorn, Guthrie and Nuxoll** voted nay. The substitute motion carried 4-3. **Chairman Heider** directed Mr. Poinelli to provide more information to the committee.

H 239

Mark Johnston, Executive Director of the Idaho State Board of Pharmacy (Board), presented **H 239** relating to Pharmacists. **Mr. Johnston** stated he was here to request that the committee send **H 239** to the floor with a do pass recommendation.

Last fall, the New England Compounding Center tragedy occurred whereby 48 Americans were killed and hundreds more were infected, including an Idahoan, due to a tainted, injectible, compounded product. Boards of Pharmacy across the nation have since taken legislative action to strengthen compounding, drug outlet, and distribution laws. At the time of this crisis, the Idaho State Board of Pharmacy was already working on H 17, now approved by the both floors, which allows the Board to more tightly regulate non-resident drug outlets, including those that distribute sterile, injectible, compounded product into Idaho. As this tragedy unfolded after the agency deadline to submit Legislative Idea Forms to the Governor for approval, the Board concentrated on the facets of this tragedy that H 17 could affect. The next step in the Board's plan to address the outcomes of this tragedy include:

- tighter regulation of sterile compounding pharmacy practice standards, for which the Board already has statutory authorization to address in rule, and
- addressing the distribution of compounded product in the absence of a valid patient specific prescription drug order.

A closer look at Idaho Code reveals that a pharmacist's compounded product shall only be dispensed pursuant to a valid prescription drug order of a practitioner, thus rendering a pharmacy's distribution of compounded product illegal, as the absence of such a patient specific prescription drug order renders the compounded product as manufactured product. In January, the Board held a negotiated rulemaking session at an open, public meeting of the Board, as printed in the Idaho Administrative Bulletin.

The Board heard oral and written testimony from prescribers and pharmacists, who implored the Board to write exceptions to law that would allow distributions of a pharmacist's compounded product thus improving public safety. Examples of such distributions include diagnostic materials, drugs temporarily unavailable from the manufacturers, nuclear pharmaceuticals, and drugs used in practitioner procedures. This bill would grant the State Board of Pharmacy statutory authority to promulgate rules that legalize limited exceptions to the definition of manufacturing.

Such pharmacy distributions are currently statutorily restricted to:

- limited quantities by retail pharmacies to practitioners for office use or
- for emergency medical reasons.

These limitations remain untouched by **H 239**, with the exception of expanding such limited distribution to all pharmacies, as many compounding pharmacies are registered as limited service pharmacies, not retail pharmacies. Thus, any potential future rules would not exceed these tight, statutory restrictions.

MOTION:

Senator Bock moved to send **H 239** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Bock will carry **H 239** on the floor.

ADJOURNED:

There being no further business at this time, **Chairman Heider** adjourned the meeting at 3:56 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
3:30 P.M.
Room WW54
Thursday, March 21, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the February 25, 2013 Meeting	Senators Lakey and Martin
Minutes Approval	Approval of the Minutes of the March 7, 2013 Meeting	Senators Lakey and Martin
Minutes Approval	Approval of the Minutes of the March 14, 2013 Meeting	Vice Chairman Nuxoll and Senator Martin
Hearing	Confirmation Hearing of Tom Stroschein to the State Board of Health and Welfare to serve a term commencing January 7, 2013 and expiring January 7, 2017	Tom Stroschein
Vote	Committee consideration of the Gubernatorial appointment of Tom Stroschein to the State Board of Health and Welfare	
<u>HCR 17</u>	Relating to Docket No. 16-0720-1201, Section 009, Subsection 01 rejection	Senator Guthrie
<u>H 98</u>	Relating to Medical Indigency	Anthony Poinelli, Deputy Director, Idaho Association of Counties
<u>H 291</u>	Relating to Hospitalization of the Mentally Ill	Ken McClure, Idaho Medical Association
Presentation	Idaho State Plan for Addressing Alzheimer's Disease	Dr. Troy Rohn, Professor & Researcher Boise State University

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 21, 2013

TIME: 3:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, Bock, Schmidt

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** convened the meeting at 3:31 p.m.

MINUTES: **Senator Lakey** moved to approve the February 25, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.
Senator Lakey moved to approve the March 7, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.
Senator Nuxoll moved to approve the March 14, 2013 minutes as written. The motion was seconded by **Senator Martin**. The motion carried by **voice vote**.

CONFIRMATION HEARING: **Chairman Heider** invited Tom Stroschein up to introduce himself to the committee. **Chairman Heider** said Mr. Stroschein comes from Moscow and would be confirmed to the State Board of Health and Welfare, to serve a term commencing January 7, 2013 and expiring January 7, 2017.
Mr. Stroschein thanked the committee, introduced his wife Ruby and said this would be his third time serving – the first term, part-time. **Mr. Stroschein** said he grew up in southeastern Idaho, went to the University of Idaho, came back to his hometown to farm and ranch with his father – who was a state representative in the 1960s. **Mr. Stroschein** said his sister also served as a legislator. **Mr. Stroschein** said he ranched for about 25 years, met his wife and moved to Moscow in order for her to go to college. They have been there for about twenty years now. **Mr. Stroschein** said he has served as a Latah County Commissioner for ten years and has had the opportunity to serve on a regional mental health board.
Senator Schmidt asked about any challenges the State Board of Health and Welfare been met with. **Mr. Stroschein** said the financial aspect is the big challenge, including increasing health care costs, employee cuts and the closure of the Department of Health and Welfare's Orofino office. **Senator Lodge** thanked Mr. Stroschein for his work, said she has had the honor of serving with him for several years and added that he is really dedicated and brings the perspective of a county commissioner to the board.

GUBERNATORIAL APPOINTMENT: **Senator Lodge** moved to send the gubernatorial appointment of Tom Stroschein to the State Board of Health and Welfare to the floor with a recommendation that he be confirmed by the Senate. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote**.

Senator Schmidt volunteered to carry the gubernatorial appointment to the floor.

HCR 17 **Senator Guthrie** said the purpose of **HCR 17** is to reject Docket No. 16-0720-1201, section 009, subsection 01.

MOTION: **Senator Schmidt** moved that **HCR 17** be sent to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

Senator Schmidt volunteered to carry **HCR 17** to the floor of the Senate.

H 98 **Chairman Heider** said Anthony "Tony" Poinelli, Deputy Director of the Idaho Association of Counties, would be presenting **H 98**.

Mr. Poinelli said his instructions were, at the last meeting, to try and find out what he could on responsibility for dependents as it relates to income tax purposes – this was because of the addition to the term "dependent" and because of the responsibility put on the parents in regard to medical care.

Mr. Poinelli said he has talked to the tax commission and the Catastrophic Health Care Cost (CAT) Board attorney and there is not a lot of resolve. **Mr. Poinelli** said he can say that the board attorney for the CAT fund said that when individuals are claimed on income tax for tax purposes, the parents (or the individual claiming them) assume at least fifty percent of the responsibility or the support. **Mr. Poinelli** said he thinks the real issue boils down to what does "responsibility" mean, that he does not have a clear definition of "responsibility" and there is not one anywhere to his knowledge. This piece of legislation does have a fiscal impact to it – it is about a \$1.8 million hit to the state. (See Attachments 6a, 6b, 6c and 6d.)

Senator Bock said he does not think liability can be posed on a parent for the expenses of an adult child unless the parent has expressly agreed to them.

Senator Bock said he does not think that filing a tax return is an agreement, with the assumption of any kind of liability. Something that Senator Lakey noticed was the definition "dependent" in **H 98** – and this is old language, this is not new language – which says that a dependent is anyone someone could claim as a dependent on your tax return. **Senator Bock** said he thinks the state is backing itself into a problem that cannot be gotten around without some changes. For example: a parent tells their 18-year-old to get out of their house and that they are not responsible for them anymore and they are not going to even claim them on their tax return. The 18-year-old does some dumb things and ends up in the hospital with medical bills of a million dollars. This bill, as now drafted, would impose liability on that parent even under those circumstances.

Senator Bock said that is a problem that needs to be fixed. **Mr. Poinelli** said there was some talk about that and there is a fix to make it absolutely black and white – a word change. **Mr. Poinelli** said he still is not sure if that would resolve Senator Bock's concern.

MOTION: **Senator Bock** said if **H 98** could be sent to the amending order, at a minimum, the Senate could make that change with the input of people who are interested here. In the meantime, there will hopefully be an opinion back from the Attorney General's Office in regard to the rest of the questions about **H 98**. **Senator Bock** moved that **H 98** be referred to the 14th Order for amendment. **Senator Lakey** seconded the motion for discussion.

DISCUSSION: **Senator Lakey** asked if Mr. Poinelli was good with **H 98** going to the amending order for the language change. **Mr. Poinelli** said if he is sure that will happen, he did not mind talking to the majority leader and then to the House. Depending on what ends up happening, the word "dependent" is specified in three different definitions.

Senator Hagedorn said the term "dependents" is used throughout the bill and if there is an issue about how the term is written, then maybe the committee should take a look at that, study it and see how it will impact the other uses of the same term throughout the rest of the bill. **Senator Hagedorn** said he is afraid, at this late date, if they tried to change the meaning of dependent, it might have unknown ramifications.

SUBSTITUTE MOTION: **Senator Hagedorn** moved that **H 98** be sent to the floor as amended with a **do pass** recommendation – and then focus, throughout the rest of this year, to maybe come in next year to take care of the "dependent" terminology. **Vice Chairman Nuxoll** seconded the motion.

DISCUSSION: **Senator Lakey** said willing to go along with the substitute motion, but it does still cause him concern that the code is written this way and he knows that is not the way they apply it. **Senator Lakey** suggested word changes in regard to the third party application from the hospital wanting to get paid and in regard to the definition of "dependent" – especially in referring to dependents on tax returns. **Senator Bock** said another thing to consider is that there are various adults out there who could become dependents, such as disabled children or aging parents. **Senator Schmidt** asked where the term "obligated persons" is used. **Chairman Heider** said line 42, on page three. **Mr. Poinelli** said another area is on page two, line 17. **Senator Hagedorn** said to support the substitute motion, one of the concerns he has is changing the definition of "dependent." It says, "could claim as a dependent under the income tax laws in the state of Idaho." **Senator Hagedorn** said his question is, at what time? When you submit your taxes? During the tax year you are submitting your taxes for? If your 17-year-old turns 18 on January 1? **Senator Hagedorn** said that is why he is hesitant to change that terminology because he thinks there are a lot more questions that need to be asked about the definition of "dependent" before changing it simply with a word. **Senator Schmidt** said there was a group of twenty people looking at the bill over the summer and that the group could not recommend revising the CAT fund in a way that could be functional for Idaho. **Senator Schmidt** said his understanding of this is that this is a temporary fix for a problem that is being dealt with right now. **Senator Schmidt** said the committee needs to try to deal with that problem and if **H 98** is going to need further correction year by year, it will have to be brought back. **Senator Schmidt** said this is an issue that the committee needs to give direction to our state and this does give some direction – although it is not perfect by any means.

The substitute motion carried by **voice vote**.

Senator Schmidt volunteered to carry the bill on the floor.

Chairman Heider said Ken McClure, representing the Idaho Medical Association, would be presenting **H 291**.

Mr. McClure said he has been fortunate enough to have had the opportunity to speak with each of the senators, individually, about **H 291**. **Mr. McClure** he would briefly go over **H 291** and would welcome any questions the senators might have. (See Attachment 7c.)

Vice Chairman Nuxoll asked how **H 291** would help in a situation in which the hospital wants help and protection from teenagers who could be bigger and stronger. **Mr. McClure** said there are people in hospitals who can help subdue a violent person because violent people do show up at hospitals. However, **H 291** allows that a policeman not be called to the hospital if it is not necessary. If it is necessary, then a policeman is called and will come to the hospital. **Vice Chairman Nuxoll** asked if a police officer is not at the hospital, can a parent take their child home? But, if an officer is there, a parent cannot? **Mr. McClure** said, under current law, the parents could take their child home. However, **H 291** allows for the hospital to retain a child until a police officer can get there.

TESTIMONY:

Margaret Henbest, Executive Director of Nurse Leaders of Idaho, said she wanted to testify in support of **H 291**. **Ms. Henbest** said she wanted to talk about Advanced Practice Nurses (APN) and what they do in the context of this legislation. Advanced practice nurses are licensed as Registered Nurses in Idaho but are also licensed as APNs. In order to be eligible for that additional licensure, they have to graduate from an accredited program which is at the Master's level and, increasingly now, at the Doctoral preparation level. APNs are educated and licensed in four areas of specialization: as nurse practitioners, clinical nurse specialists, certified nurse-midwives and nurse anesthetists. So, hospitals have looked at their education and their scope of practice ability and have approved them to practice within that scope within their institution. These APNs are very capable of – in their knowledge and education and their scope of practice – of performing the determination that this legislation addresses.

Chairman Heider asked if most nurses have the ability to subdue a young teenage boy who may be acting out or exerting his strength. **Ms. Henbest** said this legislation refers to the ability to make the determination to place a hold on a person, not actually to physically subdue a person themselves. Hospitals have practices, policies and procedures for managing an unruly patient. **Senator Hagedorn** asked what the current practice is today, without this legislation. **Ms. Henbest** said, today, only a police officer can be called to make the determination to hold a child. **H 291** allows a health professional to make the determination themselves. **Senator Hagedorn** asked how a police officer makes the determination to keep a child at a hospital. **Ms. Henbest** said she does not practice in the emergency room, but currently a hospital will call a law enforcement person – who will have to arrive in a timely manner, make that determination and then transport the client to a secure setting either by patrol car, ambulance or another secure manner. **Senator Guthrie** asked how retaining people until police arrive will be billed out. **Ms. Henbest** said she would not be the best person to answer that question but, usually, a service in a hospital is coded as a unit of service and not necessarily the time that it takes.

Chairman Heider asked if Mr. McClure wanted to add anything. **Mr. McClure** said he would be happy to answer Senator Hagedorn's previous question in regard to how a police officer makes the determination to retain a child at a hospital. **Mr. McClure** said according to Representative Wood's testimony in the House, an officer typically follows the advice of the doctor in order to air on the side of caution.

MOTION:

Senator Martin moved that **H 291** be sent to the floor with a **do pass** recommendation. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Nuxoll wanted to be recorded as voting nay.

Senator Martin volunteered to carry **H 291** on the floor of the Senate.

PRESENTATION:

Chairman Heider introduced Dr. Troy Rohn, co-founder of the Idaho Alzheimer's Planning Group, to talk about state plan for Alzheimer's Disease and **RS 22323**.

Dr. Rohn said he held a presentation for the Senate Health and Welfare Committee last year and the outcome of that was SCR 112, a concurrent resolution unanimously approved by legislature and endorsed by the governor. SCR 112 gave the green light to proceed with the development of a statewide plan. **Dr. Rohn** said he would be giving the committee an update on the progress made by the planning group, including its recommendations, as well as request approval of the state plan endorsement. (See Attachments 8a, 8b, 8c, 8d and 8e.) **Dr. Rohn** said the resolution before the committee, **RS 22323**, is identical to the one that passed last year. The only difference is, instead of giving the green light to write the plan, this endorses the plan. It is critical that the Idaho Alzheimer's Planning Group has the endorsement from the legislature to give the group – and the plan – the credibility and legitimacy needed to go get grants and funds in order to actually implement the initiatives. **Dr. Rohn** said the group already presented to the House Health and Welfare Committee and its chairman, Representative Woods, said that although this is not a controversial issue, he was concerned of the timing – with it being at the end of the legislative session. **Dr. Rohn** said that Representative Woods recommended starting the process with the Senate Health and Welfare Committee, see if the resolution could pass out of the Senate committee and then the House could pick it up on Monday.

Vice Chairman Nuxoll asked if there was a board appointed by the governor.

Dr. Rohn said the idea is that the planning group will be turned into some sort of task force, making it responsible for helping implement the initiatives that are in the state plan. **Vice Chairman Nuxoll** asked if the group will eventually try to get state funding. **Dr. Rohn** said the intention is not to come to the legislature and ask for line items and there is nothing in the state plan that states that.

Dr. Rohn said the goal is to use existing resources and fill in the gaps with grants and funds the group would be responsible for. **Senator Lodge** asked the sources of the grants the group expected to apply for. **Dr. Rohn** said there are a number of different regional, local and federal levels of dollars, such as through AARP-Idaho – which gave the group \$10,000 to help facilitate ongoing studies, collect data, etc. **Senator Lodge** asked about the competition for the grants due to the sequestration. **Dr. Rohn** said although it is super competitive out there, the funding the group is going after is much smaller and more manageable. These types of grants that are much smaller and there are a lot more foundational grant opportunities – local and regional. **Senator Hagedorn** asked if the group would be competing for grants with the Idaho Department of Health and Welfare. **Dr. Rohn** referred the question to Mike Berlin, another co-founder of the Idaho Alzheimer's Planning Group. **Mr. Berlin** said he did not believe anything the group would be applying for is competitive with any dollars that the Department of Health and Welfare is looking at.

Senator Lodge suggested **RS 22323** be taken back to the House, have it printed there, have the House run it through their calendar, let it come back to the Senate Health and Welfare Committee and have then buckslip is straight to the Senate floor – since testimony was already heard on it – so it gets to the floor on time. **Chairman Heider** said Senator Lodge's suggestion will be the avenue the committee will try to take. **Chairman Heider** thanked Dr. Rohn and said, although it is very late in the session, the committee will see what it can do to pass the resolution.

ADJOURNED: There being no further business before the committee, **Chairman Heider** adjourned the meeting at 5:05 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

JOINT
SENATE HEALTH & WELFARE COMMITTEE
AND
HOUSE HEALTH & WELFARE COMMITTEE
8:00 A.M.
WW02 - LINCOLN AUDITORIUM
Friday, March 22, 2013

SUBJECT	DESCRIPTION	PRESENTER
	Relating to County Indigency and Property Tax Relief	Representative Loertscher
	Relating to Medicaid Reform - Benchmark Plan	Richard Armstrong, Director, Department of Health and Welfare

THERE WILL BE NO PUBLIC TESTIMONY

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider
Vice Chairman Nuxoll
Sen Lodge
Sen Hagedorn
Sen Guthrie

Sen Martin
Sen Lakey
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Linda Hamlet
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MINUTES
JOINT MEETING
SENATE HEALTH & WELFARE COMMITTEE
HOUSE HEALTH & WELFARE COMMITTEE

DATE: Friday, March 22, 2013

TIME: 8:00 A.M.

PLACE: WW02 - LINCOLN AUDITORIUM

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Hagedorn, Guthrie, Martin, Lakey and Schmidt

Chairman Wood, Vice Chairman Perry, Representatives Hancey, Henderson, Hixon, Malek, Morse, Romrell, Vander Woude, Rusche and Chew

ABSENT/ EXCUSED: Senators Lodge and Bock, and Representative Henderson

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Wood** called the meeting to order at 8:00 a.m. He welcomed guests and explained that the meeting was for informational purposes only; no testimony would be heard and no legislation would be voted upon.

Chairman Wood recognized Representative Loertscher for presentation of background information on **H 308**, proposed legislation that would repeal the State of Idaho Catastrophic Health Care Cost Program (CAT), the County Medically Indigent Statute, and reduce the County levying authority for medically indigent programs.

Representative Loertscher reviewed the history of the Indigent Care Program from his perspective, beginning with his term as a Teton County Commissioner, followed by his years as an Idaho State Representative. He said indigent care costs began to escalate in 1979, which imposed a strain on Teton County's budget until eventually there was no money to cover the costs and the county was required to impose a tax.

Representative Loertscher explained that counties were first authorized by the state to maintain and manage their own tax funds. He said not all counties, however, participated in that program but instead put money into a catastrophic fund as a re-insurance pool, which could be drawn on as the need arose. He said when the state-funded catastrophic program was placed into law, funds of approximately \$2 million were not appropriated until the second year, and the funds were not totally depleted.

Representative Loertscher said the program has worked well but is no longer sustainable with the escalating costs of indigent medical care. He said current approved claims are approximately \$3.7 million for one month for the state alone, with the counties picking up nearly \$1.7 million. He said passage of **H 308** would provide over the next ten years an estimated \$178 million in direct property tax relief to the counties.

Chairman Wood thanked Representative Loertscher for his presentation and welcomed State Tax Commissioner Ken Roberts to help the committees understand the financial effects on the Charity and Indigent Fund using a reduced maximum levy rate of 0.0002.

Commissioner Roberts handed out a spreadsheet (attachment 2) and reviewed the 2012 figures for net taxable market value, property tax budget, approved levy rates and the property reduction under the new maximum levy totalling \$15,016,341. Figures for each county were listed, except for Boise, Kootenai and Teton counties, which did not levy for a charity and indigent fund for 2012. **Commissioner Roberts** said these counties can levy in other ways, however. For example, Kootenai County has a \$7 million fund in the indigent hostel program.

Commissioner Roberts said the maximum amount of property taxes that a county could levy is not affected by this legislation, and levies could come from a variety of different sources, such as fair operations, airport, bridge, and indigent.

Questions were asked by **Senators Hagedorn** and **Schmidt** and **Representative Hixon** regarding levy rates, property taxes, timing of the legislation, possible rising costs and pre-existing conditions.

Chairman Wood thanked Commissioner Roberts for his presentation and welcomed Mr. Dick Armstrong, Director, Department of Health and Welfare, for presentation of **H 309**, relating to Medicare Redesign. **Mr. Armstrong** referred Committee members to the handout (attachment 3) which outlined the proposed Medicaid Redesign Plan. He said the legislation is to include the benchmark plan for low-income adults in the Medicaid plan, including adults in families with dependent children and people age 19 years or older and under the age of 65, who were not otherwise eligible for any other coverage under medical assistance as described in title XIX of the Social Security Act.

As background information, **Mr. Armstrong** explained that the Governor appointed a workgroup in July 2012 to collect data, analyze it and provide recommendations. The workgroup engaged two national consultants to collect the data, and a report was delivered to the Governor with recommendations in December 2012. The report was subsequently amended in March to revise population and cost estimates and the approved benefit plan design.

Mr. Armstrong reviewed recommendations including personal responsibility and accountability requirements, and a redesigned health delivery system which focuses on preventive care. He outlined the eligibility categories and the upcoming switch to modified adjusted gross income (MAGI) to calculate eligibility, beginning January 2014.

Mr. Armstrong reviewed population characteristics (68 percent of uninsured families have at least one full-time worker); current sources of care for optional population; Medicaid and Insurance Exchange without optional enrollment (under the Medicaid redesign); the cost of status quo (\$1,521.5 million over ten years); cumulative costs of full enrollment (\$1.523 billion); costs of optional enrollment 2014-2024 (\$648.8 million) with a net savings over ten years of \$478.6 million. He said the total costs of full enrollment and optional enrollment offset each other over ten years with \$84.6 million overall savings. An estimated \$9.22 billion in federal funds was not included in the report.

Mr. Armstrong said 26 percent of the general population experiences diagnosable mental illness during a 12 month period, equaling 27,000 individuals in Optional Enrollment. He emphasized that people are receiving their medical services from expensive emergency rooms and they seem to have the highest rate of health problems relative to the general population and a high rate of chronic conditions, such as diabetes. He said 6,000 use CAT or Medical Indigent Services; 35,000 use Idaho Community Health Centers; 4,300 use Idaho Adult Mental Health Centers; and 2,000 use correctional facilities.

Chairman Wood thanked Mr. Armstrong for his presentation and recognized Mr. Steve Millard, Idaho Hospital Association, who handed out statistics illustrating the economic impact of Medicaid and the proposed Medicaid expansion in Idaho supported by federal government funding (attachment 4).

Mr. Millard explained that the study prepared by the workgroup did not take into account the new federal funding, so the University of Idaho was asked to do a macroeconomic report that incorporates the new numbers. The plan model was done in 2010 and is adjusted to show the economic impacts of Medicaid and the Proposed Medicaid Expansion in Idaho, supported by federal funding. He said the dollars going into the economy provide a ripple effect, with the economic activity estimated at \$699 million over a ten year period. In response to a question posed by **Chairman Wood**, **Mr. Millard** said the Affordable Care Act, when passed, included Medicare and Hospice coverage of more than \$155 billion over ten years, and the offset for that money was the increased number of insurers factored in by the mandates in place at the time. Because the plan is now optional rather than mandatory, the figure for the state is reduced to \$500 million to Idaho hospitals over ten years. He said those costs will be shifted to insurers and a change in the system is being developed to make allowances for this adjustment.

Representative Hancey asked how much employers and dependants would pay if that cost savings does not occur. **Mr. Millard** said data shows hospitals had written off charity of about \$200 million last year and the costs would have to be shifted. **Senator Schmidt** asked Mr. Armstrong if problems might occur if the legislation is acted upon too quickly. **Mr. Armstrong** replied that the project takes time in any case, and applications will be processed regardless of the legislation. In answer to a question from **Representative Perry**, **Mr. Armstrong** said the number of people coming into the system is not known, but individuals with chronic problems are already in the system. He said the Department will employ models from neighboring states, such as Oregon and Utah, as guidelines.

Senator Hagedorn asked how the state would respond if, at some point in the future, the state were to receive only 60 percent (of the 100 percent) of federal funding. **Mr. Armstrong** said if 100 percent federal funding is retracted, affected individuals would not be covered; they would have no safety net. **Senator Hagedorn** ask if an analysis could be prepared regarding costs to the state if federal funding were cut to 60 percent. **Mr. Armstrong** said that could be done.

Representative Hixson asked if there are tools in place to allow for flexibility. **Mr. Armstrong** said the Obama Administration has expressed the desire to not restrict flexibility, which will be tested in Idaho.

Representative Rusche asked Chairman Wood if there would be a hearing on **H 309** next week. **Chairman Wood** said a decision on hearing the legislation has not yet been made.

ADJOURNED: **Chairman Wood** expressed appreciation to the presenters for providing the information on the two pieces of legislation. He thanked committee members for their attendance and adjourned the meeting at 9:15 a.m.

Senator Heider
Chairman

Linda Hamlet
Secretary

AMENDED AGENDA #1
SENATE HEALTH & WELFARE COMMITTEE
2:00 P.M.
Room WW17
Monday, March 25, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the March 4, 2013 Meeting	Vice Chairman Nuxoll and Senator Martin
Minutes Approval	Approval of the Minutes of the March 12, 2013 Meeting	Senators Bock and Martin
<u>HCR 30</u>	Relating to Pancreatic Cancer Awareness Month	Representative John Rusche
Presentation:	Tobacco Harm Reduction	Brad Rodu

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider	Sen Martin
Vice Chairman Nuxoll	Sen Lakey
Sen Lodge	Sen Bock
Sen Hagedorn	Sen Schmidt
Sen Guthrie	

COMMITTEE SECRETARY

Linda Hamlet
Room: WW35
Phone: 332-1319
email: shel@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, March 25, 2013

TIME: 2:00 P.M.

PLACE: Room WW17

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Guthrie, Martin and Schmidt

ABSENT/ EXCUSED: Senators Lodge, Hagedorn, Lakey and Bock

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting to order at 2:07 p.m. and welcomed the audience. He asked the secretary to take a silent roll. He introduced the first speaker, Dr. Brad Rodu, professor of the Department of Medicine, James Graham Brown Cancer Center, University of Louisville. **Chairman Heider** stated that Dr. Rodu is from Louisville, Kentucky, and that he is a dentist and oral surgeon.

PRESENTATION: **Dr. Rodu** presented Tobacco Harm Reduction. He stated that his research is supported by unrestricted grants from tobacco manufacturers to the University of Louisville. The university administers those grants according to all the routine procedures, and the university protects the integrity of his research. When he started research twenty years ago, he decided that he would eliminate all consulting activities. He lives on a university professor's salary and will retire on a university professor's pension. He stated he will not compromise the integrity of this idea by any outside consultant. The campaign to end smoking in the United States is approaching 50 years. There are 45 million smokers in this country, and over 400,000 of them die each year from smoking related illnesses, and that encompasses 1,500 deaths in the state of Idaho.

He furthered that the lung cancer rate among men and women in the state of Idaho is below the national average. In the next twenty years, 8 million Americans will die from smoking, and all of them today are age 35 or older, so this is about saving smoking adults, and not so much about children. The anti-smoking campaign is basically informing smokers to totally quit or die. The campaign's only current tactics are behavioral therapy and nicotine. The pharmacy offers nicotine patches or gum, but the problem is the smokers who buy them encounter issues: the FDA states these products can only be used 6-12 weeks; the products are expensive; the dose is low and therefore unsatisfying to users; and the success rate of these products is only 7 percent of smokers. In other words, these products offer a 93 percent failure rate.

Dr. Rodu compared nicotine to caffeine. Both provide somewhat similar properties to the adults who use them. They provide a sense of wellbeing, elevate mood, enhance concentration and performance, and they both are addictive (nicotine more so than caffeine), but they can be used safely. Neither drug causes cancer, emphysema or heart disease. The other 3,000-5,000 chemical agents that are created when something is burned that actually cause the diseases over time. While we have safe delivery systems for caffeine (cola, coffee and tea), we are stuck on the most dangerous delivery system for nicotine, and that is smoke.

Tobacco harm reduction encourages people to use nicotine in a safer way. Smokeless tobacco is a viable option for smokers because it provides comparable nicotine levels, and is vastly safer than smoking (98 percent less hazardous than smoking). There is evidence from Sweden and the U.S. that smokeless tobacco is a good substitute. Most people are familiar with smokeless tobacco, commonly thought of as moist snuff in round cans or chewing tobacco products. Less familiar is the powdered dry snuff product that is mostly available in the South, and used mainly by women.

Dr. Rodu furthered that smokeless tobacco is 98 percent safer because it doesn't drive the risk for emphysema, lung cancer and heart disease. The mouth cancer risk among smokeless tobacco users is very, very low in absolute terms. He furthered that he is a dentist and oral pathologist, and is a mouth cancer expert. He lived in Birmingham, Alabama, and taught his medical and dental students that smokeless tobacco is a cause for mouth cancer, and yet under the microscope, he wasn't seeing that. Most of the cases of mouth cancer that he diagnosed were in heavy smokers and/or heavy drinkers. There was a disconnect between what he was seeing and what he was teaching. After researching, he found epidemiologic evidence that showed smokeless tobacco risks are very low. In 1994, he published his first scientific paper on this subject, advocating that if smokers couldn't quit, they should switch to a less hazardous product.

He stated that for people who use tobacco products, the relative risk for mouth cancer has a tenfold higher risk than among people who don't use tobacco products. Alcohol abuse also has a relative risk of a multiplier of four. Added together, and the risks grow higher. Many snuff and chewing tobacco products have very low risks. The incidence rate of mouth cancer in a population of 100,000 due to powdered dry snuff among adult users are 26 new cases per year. That number comes from a 1981 New England Journal of Medicine study. Of these 26 people, 12 will die. In comparison, according to the National Highway Traffic Safety Administration in 2009, the number of people killed on automobile related accidents was 11 per 100,000. Cigarette smokers had a mortality rate of 600 per 100,000 users per year, according to American Cancer Society data in 1999.

Swedish men have proven the idea over the past 50 years that smokeless tobacco works. Swedish men have the highest rate of smokeless tobacco use. Snus is a smokeless tobacco product that is produced in Sweden and has replaced smoking among Swedish men. **Dr. Rodu** stated that if all men in the European Union smoked at the rate of Swedish men, almost 274,000 lives per year would be saved.

He furthered that the Royal College of Physicians Report in 2002 documented the difference in the risk between smokeless tobacco and smoking. In 2007, the Royal College challenged governments all over the world to look at tobacco harm reduction to potentially save millions of lives. **Dr. Rodu** stated that he also endorses electronic cigarettes (e-cigarettes), which provides a cloud of nicotine-carrying vapor, with none of the toxic by-products of burning tobacco, that is satisfying. E-cigarettes were introduced in the U.S. in 2006, and their sales have doubled every year. In 2012, their sales were estimated to be \$500 million in the U.S., and it is projected that they will be a billion-dollar market in 2013.

Dr. Rodu stated that on the Idaho state web page it says that snus is not a safe alternative to cigarettes, which is not correct information. We would like to provide smokers with the correct information which would allow them to make better choices. You will see pressure to equalize taxes on all tobacco products, whereas we think that providing tax differences relative to risk would be a more rational approach.

Senator Guthrie asked Dr. Rodu that as a dentist, does he see more tooth decay or mouth disease with a smokeless product.

Dr. Rodu said that as a dentist, he is very concerned with mouth problems, such as mouth disease and cavities. The single biggest risk factor for serious gum disease, after heredity and level of care taken, is smoking. Smoking is a devastating risk factor for gum disease. Smokeless tobacco causes irritation locally where it is placed in the mouth. So if a smokeless tobacco user concentrates on a single spot, it will cause a recession of the gum from the tooth; but the studies don't provide good evidence that there is actually destruction of the gums and bone, so there is no periodontal disease. We counsel our patients that if they are having some of that gum recession, they should move it around to avoid any one particular site. With respect to cavities, tobacco products contain sugar. Sugar causes the potential to develop cavities. Chewing tobacco is associated with cavities. The moist snuff products do not have any sugar and are not associated with cavities.

Senator Guthrie commented that Dr. Rodu's presentation sounds a lot like an advertisement for smokeless products.

Dr. Rodu replied that he does not want anyone to start using tobacco. He is not promoting tobacco. He stated that he has seen many patients who were in the last stages of lung cancer, and everyone of those patients regret not quitting smoking in time to avoid that deadly illness. He was trying to give people another alternative who won't practice abstinence.

Senator Martin stated that he has reservations about a governmental agency doing a campaign to encourage people to participate in buying tobacco products, even though it may do less harm. How does one proceed to get this information out to the public?

Dr. Rodu replied that the first step, which is the one he is most actively engaged in and which is his main mission, is education. His purpose is to share ideas and not promote particular policies. In most states, there is a high Medicaid population with high smoking rates. Legislators of those states know that they have reached out to Medicaid patients, offering them all types of opportunities to quit, and there has been very limited success. If a Medicaid smoker switches to smokeless tobacco or an e-cigarette, that smoker will likely have the same health care dollar consumption profile as if they had completely quit all tobacco products. He stated that there are some ideas that may be developed into rational approaches to what remains a very significant public health problem.

Chairman Heider thanked Dr. Rodu for coming to speak before the committee.

HCR 30

Representative Rusche presented **HCR 30**, processed by the Pancreatic Cancer Action Network. He stated that this organization is serving the pancreatic cancer community in Idaho and nationwide through a comprehensive approach that includes public policy, research funding, patient services and public awareness and education related to developing effective treatments and a cure for pancreatic cancer. November has been declared "Pancreatic Cancer Awareness Month" in Idaho. Because pancreatic cancer is such a silent killer, has a higher mortality rate with a later diagnosis than most cancers, and its prevalence as one of the biggest causes of cancer death in the U.S.; it is certainly worthy of our attention, and he asked for support in making November pancreatic cancer awareness month.

MOTION: **Senator Martin** moved to send **HCR 30** to the floor with a **do pass** recommendation. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**. Senator Schmidt will carry **HCR 30**.

MOTION: **Senator Martin** moved to approve the March 4, 2013 minutes as written. The motion was seconded by **Vice Chairman Nuxoll**. The motion carried by **voice vote**.

MOTION: **Senator Martin** moved to approve the March 12, 2013 minutes as written. The motion was seconded by **Vice Chairman Nuxoll**. The motion carried by **voice vote**.

Chairman Heider asked if there was any further business to come before the committee, or if there was anyone who wished to speak on any of the topics presented today.

Steve West, President of Centra Consulting, thanked the committee for the opportunity to present advice and information before this committee. **Chairman Heider** thanked Mr. West for bringing Dr. Rodu before the committee, and that it was a pleasure to hear from him.

ADJOURNED: There being no further business to come before the committee, **Chairman Heider** adjourned the meeting at 2:36 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary